

**City of Memphis Employee 457(b)
Deferred Compensation Plan and 401(a)
Defined Contribution Plan**

**Request for Qualifications to Provide
Bundled Deferred Compensation Services:
Investment Management,
Recordkeeping/Administration,
Communication/Education, Investment
Advisory and Custodial Trustee Services**

RFQ No. 27349

Issue Date:	May 22, 2015
Deadline for Questions:	June 03, 2015
Deadline for Submission:	June 26, 2015

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REQUEST FOR QUALIFICATIONS ("RFQ")
for

City of Memphis Deferred Compensation and Defined Contribution Services:
Investment Management, Recordkeeping/Administration,
Communication/Education, Investment Advisory and Custodial Trustee Services

INTENT TO REPLY

Please complete the information below and send an email copy of this form to Rosemary Guillette at Segal Rogerscasey, rguillette@segaladvisors.com and Sam Johnson sam.johnson@memphis.gov at the City of Memphis regarding your intent to reply to this RFQ by June 26, 2015.

All inquiries regarding this RFQ must be addressed to the individuals listed above. The City of Memphis in consultation with Segal Rogerscasey will issue responses to inquiries and any other corrections or amendments it deems necessary in addenda issued prior to the Proposed Submission Deadline. Proposers should not rely on any representations, statements or explanations other than those made in this RFQ or in a formal addendum. It is the proposer's responsibility to ensure receipt of all addenda.

Amendments to the RFQ will only be sent to those firms that complete and return this form via fax or provide the requested information by e-mail.

RFQ Name: City of Memphis Deferred Compensation and Defined Contribution Plans
Recordkeeping and Investment Services

Company name
Mailing address
Phone number
Fax number
Contact person
E-mail address

All amendments will be sent via E-mail

Any alterations to this document made by the proposer may be grounds for rejection of the proposal, cancellation of any subsequent award, or any other legal remedies available to the Committee.

From the date this RFQ is issued until the award of the contract, all communication related to this RFQ shall be only directed to Sam Johnson, City of Memphis..

**Deferred Compensation and Defined Contribution Services: Investment Management,
Recordkeeping / Administration, Communication / Education, Investment Advisory
and Custodial Trustee Services**

I. GENERAL INVITATION

The Deferred Compensation Plan and Defined Contribution Plan for Public Employees of the City of Memphis ("**Plans**"), invites the submission of proposals for investment management, recordkeeping/administration, communication/education, investment advisory and custodial trustee services. The intent of the RFQ is to identify organization(s) as described in greater detail below.

Organization(s) with demonstrated experience in this area, and with an interest in making their services available to the Plans, are invited to respond to this RFQ.

Respondents means the organization(s) that submit their qualifications to this RFQ. The documents submitted will be referred to as "**Qualifications.**"

A. General Information and Guidelines

1. Communications Between the Plan and Respondents

Other than the submission of vendor questions to the RFQ respondents must communicate only with Segal Rogerscasey who have been retained by the Plans to coordinated the evaluation process. Current vendors may discuss ongoing business with the City but are not permitted to discuss any aspects of this RFQ. All questions or requests for clarification must be in writing, sent by email, and directed to the attention of:

Sam Johnson
City of Memphis
125 N. Main Street, Room 368
Memphis, TN 38103
Sam.Johnson@memphistn.gov

And

Rosemary Guillette
Segal Rogerscasey
116 Huntington Ave, 8th Floor
Boston, MA 02116
rguillette@segalrc.com

Qualifications must be received no later than 2:00 p.m. Central Time on June 26, 2015. A Respondent that deviates from any of these restrictions is subject to immediate disqualification from this RFQ process.

There should be no communication, either in person, in writing, or by phone, between any proposer (or prospective proposer) and any (1) member of the City of Memphis Finance Department, (2) Segal Rogerscasey, or other consultants or associates of any consulting group working for the City, (3) elected officials or their staff members, or (4) any other person in a position to influence the decision of the City, at any time during the RFQ process. Direct communication with any person who falls within the descriptions in this section in an attempt to influence the awarding of the RFQ shall be considered grounds for disqualification. Current vendors may discuss ongoing business with the City but are not permitted to discuss any aspects of this RFQ.

B. Submission of Qualifications

Each vendor must submit their RFQ response in accordance with all stipulations listed below:

Each service provider must submit a total of 5 hard copies by 2:00 p.m. Central Time on June 26, 2015 to the following, plus electronic copies to:

Four (4) bound hard and one (1) electronic copy to:

Sam Johnson
Investment Manager
125 N. Main Street, Room 368
Memphis, TN 38103
Sam.Johnson@memphistn.gov

One (1) bound copy and one (1) electronic copy to:

Rosemary Guillette
Segal Rogerscasey
116 Huntington Ave, 8th Floor
Boston, MA 02116
rguillette@segalrc.com

1. Qualifications must be clearly labeled: **Request for Qualifications Response City of Memphis Deferred Compensation Plan and Defined Contribution Services.**
2. Service providers must provide a copy of their proposal in an electronic format to Rosemary Guillette at Segal Rogerscasey via e-mail: rguillette@segalrc.com.

RFQs received after the deadline are late and will not be considered. Proposers are responsible for ensuring that their qualifications are received in a timely fashion.

RFQ SCHEDULE

The timetable for the selection process is summarized below. Note that these target dates are subject to change by the Plan.

Key Activity	Target Date
RFQ release	May 22, 2015
Submission of vendor questions	June 3, 2015
Responses to vendor questions	June 10, 2015
Proposals Due	June 26, 2015
Finalist Presentations	Week of August 24
Selection of vendor	Week of August 24
Approval/Intent to Award	Week of August 24
Negotiations of Final Terms	TBD
Finalization of Contracts/Agreements	TBD
Implementation/Transition	January 1, 2016

II. SCOPE OF SERVICES

A. Scope of Services

The Services that the Plan seeks to acquire are described in detail in Section 1 to this RFQ (the “Services”).

B. Term of Services

The initial contract term will be five years from the date on which a contract is awarded by the Plan. The contract will be automatically renewed at the expiration of any term, and the contract should remain in effect on a month-to-month basis unless either party provides to the other party one hundred twenty (120) days written notice of its intent not to renew the contract.

III. PREPARING QUALIFICATIONS: REQUIRED INFORMATION

Each RFQ must contain all of the following documents and must conform to the following requirements.

A. Format of Qualifications

Qualifications should be prepared on “8½ x 11” letter size paper (preferably recycled), printed double-sided and bound on the long side. The Plan encourages using reusable,

recycled, recyclable and chlorine-free printed materials for bids, proposals, reports, and other documents prepared in connection with this solicitation.

Sections should be separated by labeled tabs and organized in accordance with subject matter sequence as set forth below.

B. Required Content of Qualifications

At a minimum, the Qualifications must include the following information:

1. Cover Letter

Respondent must submit a cover letter signed by an authorized representative of its company. The letter must outline the number of years the company has been in business, and must provide an overview of the experience and background of the company and its committed key personnel. The letter must identify the legal name of the company, its headquarters address, its principal place of business, its legal form (i.e. corporation, joint venture, limited partnership, etc.), the names of its principals or partners, whether Respondent is authorized to do business in the State of Tennessee. The letter must also indicate the name and telephone number(s) of the principal contact for oral presentation or negotiations. The letter must indicate the Respondent's commitment to provide the work as described in this RFQ in accordance with the terms and conditions of any contract awarded pursuant to the RFQ process.

The respondent must certify that he/she has the authority to respond and answer all questions regarding the proposal and has the authority to negotiate the final terms of the agreement.

If Respondent is a business entity that is comprised of more than one legal participant (e.g., Respondent is a limited partnership, joint venture, etc.), then Respondent must identify or cause to be identified all participants involved, their respective ownership percentages, and summarize the role, degree of involvement, and experience of each participant separately.

IV. EVALUATING PROPOSALS

The City of Memphis along with Segal Rogerscasey will review and evaluate the Proposals, as described below.

The City of Memphis and Segal Rogerscasey will first examine proposals to eliminate those that are clearly non-responsive to the stated requirements. Therefore, proposers should exercise particular care in reviewing the proposal format required for this RFQ.

In evaluating the proposals, all aspects of the required services will be fully evaluated. The City may consider any factors it deems necessary and proper for best value, including but not limited to:

1. Quality and performance of investment offerings and overall investment management services.
2. Commitment to on-site employee enrollment, ongoing communication, customer service, and employee education.
3. Data-management services, including creation and maintenance of employee data, transaction data and history, interfaces with suppliers and Payroll, and other record keeping and administrative functions, including compliance.
4. Overall cost structure and credit allowances for plan level expenses.
5. Size, structure, resources, and experience in providing deferred compensation and defined contribution services that are similar in size and scope to that of the Plans' .
6. Flexible fund alliance programs.
7. Qualifications of the personnel assigned to execute the services required.
8. Scope and value of performance guarantees.
9. Investment advisory services.
10. Technical Competence as evidenced by:
 - a. Respondent's professional qualifications and specialized experience, which is necessary for the satisfactory performance of services, including availability of adequate personnel;
 - b. The professional qualifications and specialized experience of committed personnel; and
 - c. Respondent's past performance on similar type contracts, in terms of quality of services and compliance with specifications. The Plan may solicit from previous clients, relevant information concerning Respondent's record of past performance.
11. Responsiveness – The City will consider the completeness and accuracy of Respondent's Proposal.
12. Financial Stability -- Respondent must be financially stable, helping to ensure performance over the duration of the services.
13. Compliance with Laws, Ordinances and Statutes -- The City will consider Respondent's compliance with all laws, ordinances, and statutes governing the services and of the respondent.

14. Conflict of Interest -- The City will consider any information regarding a Respondent, including information contained in a Respondent's proposal, that may indicate any conflicts (or potential conflicts) of interest which might compromise the Respondent's ability to successfully perform the proposed services or undermine the integrity of the competitive procurement process. If any Respondent has done any work for the Plan in researching, consulting, advising, drafting, or reviewing this RFQ or any work related to this RFQ, such Respondent may be disqualified from further consideration.
15. Legal actions, if any, against Respondent and any division, subsidiary or parent company of Respondent.

Selection Criteria

The City will evaluate all proposals according to the factors and weights listed below. Those Contractors that score in the Competitive Range will be invited to make presentations to the City. Each proposal will be scored on a scale of 0 to 100, with 100 being the highest. The major evaluation categories are listed below:

1. Experience of Contractor (10 points)

Including but not limited to:

- Financial condition
- 457 and 401(a) experience
- Quality assurance
- Prior performance record (including references)
- Experience of transition and ongoing teams
- Technical innovation

2. Proposed Plan of Work (50 points)

Including but not limited to:

- Timeliness of transition plan
- Participant communication
- Participant education
- Investment Advisory Services
- Recordkeeping
- Administration
- Field Representatives
- Dedicated support staff
- Reporting to Plan sponsor
- Loan features
- Technology management

3. Investment Services (25 points)

Including but not limited to:

- Investment vehicle performance
- Qualitative assessment
- Investment management fees
- Investment Advisory Services

4. Cost to the City (15 points)

Including but not limited to:

- Transition Costs;
- Recordkeeping costs;
- Loan processing
- Other administrative costs (if any)
- Deferred sales charges (if any)
- Market value adjustment

Minimum Qualifications of Service Provider

Respondent(s) must meet all of the following minimum qualifications to be given further consideration. If a proposal is submitted by a company that does not satisfy the minimum qualifications it will not be reviewed or considered. **Respondents are required to complete Attachment A (Appendix) – Certificate of Compliance** with terms and conditions of RFQ to document any exceptions to their RFQ response.

1. Proposers must certify that they are a qualified firm to provide administrative services pursuant to Sections 457 and 401(a) of the Internal Revenue Code, including all rules and regulations of the State of Tennessee.
2. Proposers must offer bundled administrative services (i.e., recordkeeping/administration, communication/education, custodial trustee services, and investment advisory services), as well as investment management services with an open architecture investment platform.
3. Proposer must have at least **ten (10) years' experience** in providing the proposed services and products to the public sponsor defined contribution marketplace and must be administering a minimum of **five (5)** each 457 deferred compensation and 401(a) defined contribution plans of similar size.
4. Proposer must have a minimum of **\$2 billion** under investment management for both public sector 457 plans and 401(a) defined contribution.
5. Proposer must have at least **three (3)** public sector 457 plan accounts each with **6,000** or more participants.

6. Trust/custodial services must have been provided to defined contribution plans for at least **five years (5)** and have at least **\$5 billion** under trust/custody. Trustee services can be provided either through direct services or through a banking arrangement.
7. Any relationships proposed to provide services offered in this RFQ must have been in place for at least **five (5)** years and provide services to similar plans (size and demographics).
8. Proposers who elect to provide investment advisory services/onsite services utilizing a joint-venture must have a minimum of **four (4) to five (5) years'** experience with the proposed service provider.

Service Provider Specifications

1. Proposers must be able to accommodate a January 2016 implementation date.
2. Proposers must have the capability to establish a two-way data interface with the Plan and will be solely responsible for timely, accurate transmission and, as appropriate, editing and validation of data for processing enrollments and contribution activity. The successful service provider will absorb all of the Plan's programming costs to accommodate any changes to its payroll system.
3. Proposer must have a Statement on Standards for Attestation Engagements (SSAE) 16 Audit conducted at least annually and provide their most recent SSAE 16 as part of their response to this proposal.
4. Proposers must provide resources to support the on-going consultation to the City and all Plan participants located throughout the Plan. This includes the availability of customer and field service representatives to support employee meetings and new employee orientation programs. The selected vendor must have field service support available by November 2015 to commence the new plan roll out.
5. Proposers must be able to maintain and track participant contribution rate changes and report an electronic feedback file with updated information to payroll so that they can in turn update their payroll deduction records.
6. Proposers must be solely liable and responsible for any processing errors of the provider or its agents. In the event of a participant's loss of interest and/or dividend and/or principal due to an error by the selected proposer or its agent in processing transactions on behalf of the participant, the selected proposer agrees to adjust the participant's account to the same position as if the processing error had not occurred.
7. Provide the daily ongoing administration of the Roth 457(b) provision.
8. Provide administrative services related to the administration of both hardship distributions and Qualified Domestic Relations Orders (QDRO).
9. Field Service Representatives that provide enrollment, education and participant communication services may not have commission-based compensation or any financial incentives to promote any investment product or services. A salary-based compensation structure is required for all field service representatives allocated to this relationship.

10. The successful respondent will be required to take on the administration of the life insurance program of the plan. It is expected that the successful respondent will incorporate the life insurance contracts as part of their recordkeeping/administration services and that all life insurance policies be reported and illustrated on the participant statements. The purchase of new or additional life insurance will no longer be offered through the Deferred Compensation Plan. The successful respondent will be required to administer the repayments of the existing contract.

Any responses not meeting these specifications may be considered, at the sole discretion of the City as non-responsive.

As part of the evaluation process, the City will review the information required by Sections II III IV, for each Qualification received. The City may also review any other information that is available to it, including but not limited to information gained by checking references and by investigating the Respondent(s) financial condition.

The Plan reserves the right to seek clarification of any information that is submitted by any Respondent in any portion of its Qualifications or to request additional information during the evaluation process. Any material misrepresentation made by a Respondent may void the Qualifications and eliminate the Respondent from further consideration.

V. CONFIDENTIALITY

Responses to this RFQ become the exclusive property of the Plan. All documents submitted in response to this RFQ are subject to the Tennessee Open Records Law (Tenn. Code Ann. 10-7-503 et seq.) and may be regarded as public records subject to disclosure.

Confidentiality Requirements Related to Plan Information

All of the reports, information, or data, prepared or assembled by or provided to the Respondent in this RFQ are confidential. Except as may be required by law, the Respondent will not make available such reports, information, or data, to any other individual or organization and will use the reports, information or data only to assist in preparation of Respondent's Qualifications.

VI. ADDITIONAL DETAILS OF THE RFQ PROCESS

A. Addenda

If it becomes necessary to revise or expand upon any part of this RFQ, an addendum will be sent to all of the prospective Respondents that have completed the Notice to Proposer Form.

B. Plan's Rights to Reject Qualifications

The Plan reserves the right to reject any and all Qualifications that do not conform to the requirements set forth in this RFQ; or that do not contain at least the information required by Section III, above or for any reason.

C. No Liability for Costs

The Plan is not responsible for costs or damages incurred by Respondents, team member(s), subcontractors or other interested parties in connection with the RFQ process, including but not limited to costs associated with preparing the Qualifications and of participating in any finalists presentations.

SECTION 1

Scope of Services

Section 1: Scope of Services

Purpose/Objective

The City of Memphis, Tennessee Deferred Compensation and 401(a) Plans (“Plans”), is seeking competitive qualifications from qualified organization(s) to provide investment management, recordkeeping/administration, communications/education, investment advisory and custodial trustee services for the City of Memphis Employee 457(b) Deferred Compensation and 401(a) Plans (the “Plans”). The 457 plan has one service provider, Nationwide Retirement Solutions, that provides plan administration, recordkeeping, stable value, participant education and onsite services for approximately \$260 million of Plan assets as of March 31, 2015. In addition to the deferred compensation plan, the City is starting a 401(a) plan as part of a new hybrid retirement structure effective June 30, 2016.

The 457 plan has approximately 6,520 eligible employees and 3,956 active and contributing participants with account balances. The 401(a) plan is expected to have approximately 1,500 initial participants.

The City is expecting for a single service provider to be responsible for overseeing the entire administration and operation of the Plans.

The services requested in this Request for Qualification (RFQ) consist of the following:

Scope of Services

Investment Management Services

While the Plans are interested in selecting a service provider that offers an attractive and flexible array of investment options, the investment line-up is not being considered with the RFQ with the exception of stable value.

Respondent should propose a Stable Value/Fixed Income Fund that is fully diversified, limits credit risk/exposure, provides competitive returns with no benefit payment limitations and provides attractive contract termination conditions.

The City of Memphis Blended Fixed consists of one stable value product:

	3/31/2015 Book Value	3/31/2015 Market Value
Nationwide Life Insurance Company (general account)	\$77,633,277	\$77,633,277
<u>Great West (separate account)</u>	<u>\$55,285,678</u>	<u>\$56,310,037</u>
City of Memphis Plan Blended Fixed	\$132,918,955	\$133,943,314

It is expected that both stable value mandates will be available for transfer to the proposed Stable Value product.

Implementation Services

The successful respondent will be required to provide a detailed plan transition strategy along with communication materials to explain any new plan changes and enhancements. The potential

Section 1: Scope of Services

conversion from the current plan provider to a new provider will require you to provide an explanation of the process, blackout period and reconciliation of plan assets to the individual participant records. It is required that on site support team be in place prior to the actual transition date.

Administration and Recordkeeping Services

The successful respondent will be required to provide detailed information about their recordkeeping and administrative systems and use of technology. Important factors include the ability to process payroll deductions, monitor compliance, daily processing of participant transactions, provide timely and accurate participant statements and financial statements. The respondent must have in place a toll-free customer center, voice response services and internet services that allow participants access to their accounts.

Employee Communication, Education, and Enrollment Services

The successful respondent will be required to provide a comprehensive employee communication and investment education program. Communication services are to be supported by customer service representatives and comprehensive Internet services that provide participants with interactive financial and retirement planning tools and software. A dual high-touch, high-tech approach will be required to provide the participants with all of the necessary financial information and data to make informed investment decisions related to their elections. An explanation that outlines your firm's capabilities in designing and implementing a communication and education strategy will be required for both the initial transition and ongoing process. The goal is to identify a respondent that offers comprehensive communication and education services supported by field representatives to accommodate the needs of the employees located throughout the Plan. In addition to your core communication services, it is the expectation that your field service representatives will be available to provide one-on-one counseling and investment advisory services.

The compensation structure of the field service representative should not allow for any cross selling of any of your investment products or services. Compensation and incentive awards for your field representatives must be structured to maintain an objective and unbiased distribution of investment products and services to the Plan's participants.

Your qualifications should clearly define the number of field service representatives that will be devoted to this relationship, their compensation structure, and ability to provide one on one participant level investment advisory services.

Your qualifications should include your recommendation for a plan of similar size as to the appropriate level of assigned field representatives.

The successful respondent will be required to assist employees with the completion of enrollment forms, verify the completeness of the forms and coordinate the institution of salary deferrals with the Plan's payroll system.

Currently Nationwide allocates a staff of 3 employees, 2 Field Representative and 1 Office Manager that primarily service, approximately 70% of their time, the City. The office is located at 2670 Union

Section 1: Scope of Services

Extended, Memphis, TN 38112. The office is open Monday through Friday from 9am and to 5pm. Based on the size of the eligible employees your qualifications response should fully describe your approach for providing on site support services.

The successful respondent must prepare enrollment packages, which must be distributed at group meetings and at employees' request. The enrollment packages must contain all information in a complete and concise manner so that an employee would be able to enroll in the Plan. The successful respondent must also provide enrollment counseling to employees who wish to discuss the Plan and the investment offerings in person or over the telephone. A supply of enrollment packages must also be available at various work locations throughout the Plan.

The successful respondent will be required to prepare, for City approval, an annual education plan. This plan should detail the approach that your organization will take in communicating the program to employees. This should also include the plan for contacting existing participants, to periodically re-evaluate their deferred compensation plan participation and review whether changes should be made. The City will require quarterly information from the successful respondent to monitor plan level activity. This report shall include data on both the Plan and participation level, as well as the status and resolution of any participant problems and developments in the delivery of plan services.

Trustee/Custodial Services

The successful respondent must provide trustee/custodial services for the Plan or arrange for trustee services with an outside party. Any additional costs for trustee/custodial services are to be fully disclosed in the fee section of this Request for Qualifications.

Fees

The City will carefully examine all the costs associated with each provider's products and services. Each respondent will be required to fully disclose fees based on the plan information provided in this RFQ.

Preparation Costs

All costs incurred or in any way associated with the qualification's preparation, response, submission, presentation, or oral interviews shall be the sole responsibility of the proposer and shall not be reimbursed by the Plan.

Summary

In summary, the purpose of this RFQ is to solicit qualifications from qualified vendors that can offer the highest quality services, best in class investment options, favorable credit allowance along with the maximum value for the overall benefits and services.

The City expects each proposer to clearly outline their firm's best and most comprehensive resources, because the City expects to outsource all services and responsibilities identified in this RFQ.

Section 1: Scope of Services

Information Regarding the 457 Plan

Plan :	City of Memphis
Plan Type	Section 457 Deferred Compensation Plan
Eligible Employees:	6,520
Life Insurance	Yes, but no longer offered. See below for details
Eligibility:	All City of Memphis public employees receiving compensation
Rollovers:	Rollover contributions from other eligible plans and IRAs are allowed
Plan Year:	January 1 to December 31
Benefit Payment Events	<p>The plan allows for withdrawals for the following events:</p> <ul style="list-style-type: none">▪ Termination of employment▪ Retirement▪ Death▪ Financial Hardship
In-Service Withdrawals	<p>Participants may withdraw their contributions plus interest for the following reason:</p> <ul style="list-style-type: none">▪ Financial hardship as approved by the City▪ In-service withdrawal if 1) account balance is less than \$5,000, 2) participant has not deferred to the plan in two years or more and 3) the participant has never taken a withdrawal of this type before.
Form of Distribution	<ul style="list-style-type: none">▪ Lump Sum▪ Partial Lump Sum▪ Payment in equal amounts for period designated by participants▪ Systematic Withdrawal Option▪ Nationwide Life Purchased Annuities
Catch-up Contributions	As permitted by law
Purchase of Service Credit	Allowed
Life Insurance:	<p>Monumental Life Insurance Company (Universal Life Insurance) Old Policies: 2,662 Active Policies: 1,147</p> <p>The service provider will be responsible for collecting and paying the premium on the active policies.</p>

Section 1: Scope of Services

Plan Demographic Information

1. Frequency of contributions (weekly/bi-weekly/monthly)	Bi-weekly
2. Medium used to remit contributions files (electronic, disk, magnet tape, etc.)	Electronic
3. Funding method (check, wire, ACH)	Wire
4. Number of payroll locations	3
5. Number of payroll files	1

Participation Breakdown			
	2014	2013	2012
Total Active	6,079	6,118	6,193
Actively Contributing	3,956	4,024	4,141

Cash Flow			
	2014	2013	2012
Contributions	\$24,178,228	\$22,241,446	\$16,958,697
Withdrawals	-\$26,377,310	-\$9,374,990	-\$13,912,466
Net Cash Flow	-\$2,199,082	\$12,866,456	\$3,046,230

	457 Plan 12/31/14
Number of eligible employees	6,520
Number of participants active and contributing	3,956
Number of participants active, not contributing	1,821
Number of terminated participants w/balances	302
Number of terminated participants w/balances less than \$5,000	91
Number of participants suspended due to hardship	N/A
Total account balances - participants active and contributing	\$258 million
Total account balances - terminated participants w/balances	\$27,614,391
Total account balances - suspended due to hardship	N/A
Total account balances – participants with loans	1,456
Average account balance	42,439
Participation rate	60%

Section 1: Scope of Services

Transaction Activity

457 Plan	2014	2013	2012	2011
Number of new participants	251	237	146	140
Number of new loans	506	470	527	501
Number of outstanding loans	1,456	1,475	1,492	1,441
Number of hardship withdrawals	126	185	193	158
Number of in-service withdrawals not due to financial hardship	24	10	20	10
Number of lump sum distributions	2,117	2,063	1,976	1,846
Number of recordkeeper IRAs opened	N/A	N/A	N/A	N/A
Number of minimum required distributions	207	194	180	168
Number of QDROs	32	26	21	19
Number of rollovers <i>into</i> the plan	242	250	249	134

Contributions/cash-in

457 Plan	2014	2013	2012	2011
Employee Pre-tax (excluding catch-up contributions)*	\$9,983,964	\$9,547,379	\$9,238,439	\$9,895,796
Age 50 catch-up	Not available	Not available	Not available	Not available
3-year catch-up	Not available	Not available	Not available	Not available
15-year catch-up	N/A	N/A	N/A	N/A
Roth	\$647,319	\$304,378	\$9,900	N/A
After-Tax	N/A	N/A	N/A	N/A
Employer Match	N/A	N/A	N/A	N/A
Employer Discretionary	N/A	N/A	N/A	N/A
Rollover Contributions	\$11,332,480	\$10,365,696	\$6,741,172	\$5,835,682
90-24 Contract exchanges	N/A	N/A	N/A	N/A
Loan repayments	\$3,507,890	\$3,171,687	\$3,089,813	\$2,864,578

* System does not separate catch-up contributions

Withdrawals/cash-out

457 Plan	2014	2013	2012	2011
Lump sum distributions – cash	\$8,787,033	\$7,205,578	\$6,401,123	\$5,143,534
Lump sum distributions – rollover	\$1,916,886	\$1,298,191	\$413,697	\$1,176,729

Section 1: Scope of Services

De Minimum payments (less than \$5,000)	\$124,300	\$32,278	\$26,927	\$21,162
Installment payments	\$4,714,328	\$6,370,494	\$2,376,182	\$2,603,617
Unforeseeable/Hardship withdrawals	\$311,028	\$523,471	\$533,040	\$581,654
Inservice withdrawals (excluding hardship withdrawals)	\$82,300	\$100,189	\$41,627	\$27,412
Loan withdrawals	\$4,344,960	\$3,957,437	\$3,631,905	\$3,276,685
Fees (ie: loans, self-directed brokerage)	\$91,117	\$89,594	\$89,311	\$84,692

Section 1: Scope of Services

Information Regarding the 401(a) Plan

Plan :	City of Memphis
Plan Type	Section 401(a) Plan
Eligible Employees:	Approximately 1,500 initial
Eligibility:	All new hires and current employees with fewer than 7.5 years of service as of 7/1/16; employees in the AFSCME bargaining unit who pay into Social Security are not eligible
Contributions:	\$5,113,625 estimated annual contributions
Rollovers:	None allowed
Plan Year:	January 1 to December 31
Benefit Payment Events	The plan allows for withdrawals for the following events: <ul style="list-style-type: none">▪ Termination of employment▪ Retirement▪ Death
In-Service Withdrawals	No
Form of Distribution	<ul style="list-style-type: none">▪ Lump Sum at separation or retirement▪ Annuity at retirement
Catch-up Contributions	As permitted by law
Purchase of Service Credit	No

Section 1: Scope of Services

Balances by Investment 3/31/15

Investment Option	Investment Category	Ticker	Account Value as of 3/31/15	Percent of Assets
Fixed Option	Stable Value	N/A	\$ 132,931,474	51.1%
Vanguard(R) Prime Money Market	Money Market	VMMXX	\$ 17	0.0%
PIMCO Total Return	Intermediate Fixed Income	PTTRX	\$ 3,762,809	1.4%
TCW Total Return Bond	Intermediate Fixed Income	TGLMX	\$ 324,073	0.1%
Waddell & Reed Advisors High Income Bond	High Yield	WYHIX	\$ 1,915,214	0.7%
Edgar Lomax Value	Large Cap Value	LOMAX	\$ 7,626,582	2.9%
Parnassus Core Equity Fund	Large Cap Core - SRI	PRILX	\$ 1,873,680	0.7%
SSgA S&P 500 Index	Large Cap Core	SVSPX	\$ 8,578,034	3.3%
Fidelity Contrafund	Large Cap Growth	FCNTX	\$ 42,176,755	16.2%
JPMorgan Mid Cap Value	Mid Cap Value	FLMVX	\$ 8,282,143	3.2%
Vanguard Mid-Cap Index	Mid Cap Core	VIMAX	\$ 1,964,457	0.8%
Neuberger Berman Genesis	Mid Cap Growth	NBGIX	\$ 11,400,210	4.4%
AllianzGI NFJ Small-Cap Value	Small Cap Value	PSVIX	\$ 866,141	0.3%
AMG SouthernSun Small Cap	Small Cap Core	SSSIX	\$ 1,326,335	0.5%
Brown Capital Management Small Company Fund	Small Cap Growth	BCSIX	\$ 1,521,910	0.6%
Oppenheimer Global	Global Equity	OGLIX	\$ 7,176,939	2.8%
MFS International Value	International Equity Value	MINJX	\$ 632,722	0.2%
EuroPacific Growth Fund	International Equity Core	RERGX	\$ 4,079,501	1.6%
Oppenheimer International Growth	International Equity Growth	OIGIX	\$ 383,823	0.1%
Vanguard REIT Index Fund	REIT	VGSLX	\$ 1,305,910	0.5%
Vanguard Target Retirement Income	Target Date	VTINX	\$ 489,080	0.2%
Vanguard Target Retirement 2010	Target Date	VTENX	\$ 49,360	0.0%
Vanguard Target Retirement 2015	Target Date	VTXVX	\$ 1,467,641	0.6%
Vanguard Target Retirement 2020	Target Date	VTWNX	\$ 2,124,908	0.8%
Vanguard Target Retirement 2025	Target Date	VTTVX	\$ 2,090,198	0.8%
Vanguard Target Retirement 2030	Target Date	VTHRX	\$ 1,561,065	0.6%
Vanguard Target Retirement 2035	Target Date	VTTHX	\$ 2,179,603	0.8%
Vanguard Target Retirement 2040	Target Date	VFORX	\$ 1,656,046	0.6%
Vanguard Target Retirement 2045	Target Date	VTIVX	\$ 1,402,659	0.5%
Vanguard Target Retirement 2050	Target Date	VFIFX	\$ 1,014,382	0.4%
Vanguard Target Retirement 2055	Target Date	VFFVX	\$ 91,883	0.0%
Vanguard Target Retirement 2060	Target Date	VITSX	\$ 55,503	0.0%
Loan		-	\$ 7,961,821	3.1%
			\$ 260,272,879	100.0%

Section 1: Scope of Services

Goals and Objectives of the Deferred Compensation Plan

As part of the vendor selection criteria, the City is looking for a respondent that has the capability of dealing directly with at least **6,000** employees. For a program of this size to be a success, an administrative process must be in place to address the needs of all eligible employees.

The City wants to develop a relationship with a respondent who will offer strong and competitive fund choices, accurate and timely recordkeeping services, and administer the Plans within pre-described service standards. It places a high value on finding a respondent that meets the following qualifications:

1. Focus on Quality and Consistency of Service Delivery

- Adheres to successful quality assurance procedures;
- Follows a successful problem resolution methodology;
- Has a history of performing services on a timely basis;
- Performs services correctly and accurately every time;
- Provides accurate and consistent responses to inquiries; and
- Provides reports on quality assurance.

2. Proactive Approach

- Educates participants through participant friendly communications;
- Educates participants by providing informed toll-free customer service center and field service representatives; and
- Provides on-going on-site visits to individual Plan groups for participant enrollment and group meetings.
- Participates in on-going employee training sessions that discuss retirement planning issues.

3. Commitment to Technology Development

- Keeps up to date on technological developments such as Internet access;
- Continuously invests in enhanced technology; and
- Demonstrates improvement (accuracy, timeliness, etc.) in client service through technological enhancements.

4. Top Quality Investment Vehicles

- Strong and competitive fund choices; and
- Diversified array of investment offerings.

Section 1: Scope of Services

Finalist Presentations

The purpose of the finalist presentations is to give each finalist an opportunity to further explain its qualifications, services, and capabilities.

When final presentations are made to the City, it is expected that each proposer will bring to the meeting those people who will work directly with the City, if proposer is successful.

Travel expenses and costs related to the interview will be the responsibility of the proposer.

Working Relationships

The successful proposer will be required to work closely with the City and their consultants to identify cost savings and improvements to the Plan.

Exceptions/Additions

Any replacement language proposed by a proposer will be submitted for clarification only, and is understood to be contingent upon the City's acceptance. The City assumes no obligation to accept, reject, or negotiate proposed replacement terms or conditions with the successful proposer.

The proposer is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error in the Request for Qualifications before submitting the proposal; otherwise, the right to raise such issues shall be waived.

Section 2

Request for Qualification

Administrative Services Questionnaire

Section 2: Administrative Services

Organization and History

1. **Proposer Information:** Provide a brief overview of your organization. The narrative shall include the following:
 - a. date established;
 - b. ownership (public, partnership, subsidiary, etc.);
 - c. years active in the deferred compensation market;
 - d. years active in the 457 market;
 - e. years active in the 401(a) market; and
 - f. relationships with other entities relevant to or related to the subject matter of this RFQ.
2. Provide the following information:
 - a. Total assets under management
 - b. Total defined contribution assets under management
 - c. Total deferred compensation assets under management
 - d. Total public 457 deferred compensation assets under management
 - e. Total public 401(a) assets under management
3. How many proposals have you submitted in the last three years in response to 457 deferred compensation plan service provider RFQ's or RFPs? How many for 401(a) plans?
4. What are your client retention statistics for each of the last three years? For those who left, what percentage left due to issues pertaining to services provided by your organization?
5. How many 457 deferred compensation plans have you lost in the last three years broken out by year? How many 401(a) plans?
6. How many 457 deferred compensation plans have you gained in the last three years broken out by year? How many 401(a) plans?
7. What is the average client relationship duration? What is the average relationship duration for your public sector plans?
8. List the number and total assets of the 457 plans that you currently administer in the following categories:

	Plans		Assets	
Number of Participants 457 Plans	Number	Percent	Amount	Percent
Under 1,000				
1,001 – 5,000				
5,001 – 10,000				
10,001 +				
Total				

Section 2: Administrative Services

9. List the number and total assets of the 401(a) plans that you currently administer in the following categories:

Number of Participants 401(a) Plans	Plans		Assets	
	Number	Percent	Amount	Percent
Under 1,000				
1,001 – 5,000				
5,001 – 10,000				
10,001 +				
Total				

10. What is the total number of participants in all public sector deferred compensation plans currently being administered by your organization? Break out by 457 and 401(a) as well.
11. Describe your errors/omissions liability insurance and coverage. Describe the various types of insurance coverage and indemnification provided to protect clients.
12. Has your company, or any affiliates, been a party to any litigation during the last three years involving your deferred compensation recordkeeping and administration services? If yes, please provide: 1) the nature of the claim or action 2) the current status of the litigation, 3) any fines or settlements paid.
13. What is the last date when your organization had a change in its business structure, whether through an acquisition or divestiture or through an alliance arrangement? If applicable, how did this change in business affect the recordkeeping division?
14. Describe any pending or anticipated plans to re-organize your company within itself or as part of the larger organization of which your company is a part.

References

1. Please provide references for three current 457 clients and three current 401(a) clients that have similar plan demographics (*i.e.*, size and plan design). If available, at least one of the three should have converted within the last year. For each reference, please provide client name, contact name, address, phone number, services provided, and year they became a client.
2. Please provide references for three former clients who had similar plan demographics (*i.e.*, size and plan design). At least one of the three should have left within the last year. Please provide former client name, contact name, address, phone number, services provided, year they ceased to be a client and the reason(s).

Client Service / Quality Assurance

1. How many of your employees work on defined contribution plans? How many specifically work on 457 and 401(a) plans? Provide a breakdown of the number of full-time equivalent employees working on defined contribution plans as indicated in the chart below:

Section 2: Administrative Services

Personnel Type	Number
Management	
Call Center Mgmt/Supervisors	
Customer Service Reps	
Field Reps	
Systems Management	
Systems Staff: Development & Operating/Maintenance	
Website	
Other	

2. What is the average tenure (in years) of the following positions:
 - a) Plan Administrator
 - b) Client Relationship Manager
 - c) Field Service Representatives
 - d) Conversion Project Manager
 - e) 800 Customer Service Center Representatives
3. Do you currently have staff located in Memphis? If yes, where is your office located? If no, where is the closest office?
4. Describe the team that would deal directly with the State on an ongoing basis. Indicate size, roles, experience, and turnover rates. In addition, provide a brief resume for each individual.
5. Does the client service manager have the authority to resolve problems? For those issues that the client service manager does not have direct authority to resolve, identify the process internally that will be followed to provide resolution.
6. What location(s) would provide the services described in this RFQ?
7. Briefly describe the training program and licensing requirements for your field service representatives. What are the licensing requirements?
8. Briefly describe the training program and licensing requirements for your 800 customer service representatives. What are the licensing requirements?
9. Will you need to hire any additional staff in order to service this account?
10. Describe your service standards and turnaround time for the completion of the following:

Transaction	Turnaround Time	Penalty (\$) for Not Meeting Standard
Implementation		
Issuance of Participant Statements		
Transaction Confirmation Statements		
Hard Copy Plan Level Administrative Reports (hard copies)		
Processing Payroll Contributions		
Hardship/Unforeseen Emergency Withdrawals		

Section 2: Administrative Services

Transaction	Turnaround Time	Penalty (\$) for Not Meeting Standard
Termination/Rollovers/Direct Transfers for Distribution		
Fund Balance Transfers		
Investment Election Requests		
Error corrections and adjustments		
Contribution Percentage Elections/ Changes		
QDRO Processing		

11. What is the total, annual amount you are willing to put at risk?
12. Do you have any guarantees or protections against cyber theft? If yes, briefly describe. If no, are you working on any?
13. How frequently do you conduct client and participant satisfaction surveys of your services and performance?
14. Is the survey conducted by an independent entity?
15. What corrective measures or action steps do you perform to address client and participants who are not satisfied with your service performance?

Recordkeeping / Administration

1. What portion of your organization's expenses is related to recordkeeping and system technology development?
2. Provide samples copies of proposed administrative forms that are to be used by the plan participants to request transactions. Briefly describe the level of customization.
3. Can you accept manual edits, adjustments, and indicative data changes to the contribution input file? (Yes/No)
4. Can you handle negative data from the payroll files? (Yes/No)
5. Are you able to handle multiple vesting (at least 2) schedules? (Yes/No) If yes, how many?
6. Describe how your payroll contribution reports identify participants contributing up to the current maximum contribution, and identify participants in catch-up status.
7. Are you able to fully administer hardship/unforeseen emergency distribution requests? (Yes/No)
8. For systematic payment distributions, is payment made on a pro rata basis or can a participant elect systematic payment from specific fund(s)?
9. Describe your process for searching for participants who have not cashed their distribution payment checks.
10. Are you able to fully qualify and process Qualified Domestic Relations Orders (QDROs) with the attorneys representing the parties? (Yes/No) Be specific about any role the City will be required to play.
11. Describe any limits imposed on any participant initiated transactions (ie: mix changes, contribution rate changes, etc.).

Section 2: Administrative Services

12. Describe the process you use to track and maintain employee beneficiary data.
13. How much historical plan information do you maintain on participants? List the type of information available. How much information is immediately available?
14. List other administrative services do you provide.

Systems Capabilities and Hardware

1. What system do you use to recordkeep and administer defined contribution plans? Do you have different systems for 457 and 401(a) plans? (Yes/No)
2. Was the software developed internally, leased, or purchased from another provider? Who has the ultimate responsibility/authority to make sure the software remains current to laws, regulations, client needs, etc.?
3. How long have you used these systems for recordkeeping?
4. Are you planning any major change in the software or hardware supporting your recordkeeping system in the next 24 months? If yes, please describe.
5. Describe your documented disaster recovery plan. How often do you test your recovery system?
6. Where is your main data processing center located?
7. Where is your back-up center located?
8. How often is data backed-up?
 - a) Describe any system outages within the last three years and how have they been handled?
 - b) Has any liability resulted from these outages and are there any pending claims related to these outages?
9. Describe in detail your procedures and safeguards used to guarantee:
 - a) Security for your hardware and facility
 - b) Authorized access to data
 - c) Confidentiality of data
 - d) Security for any hard copy of plan-related data or documents
 - e) Explain your process in the event that participant data is compromised.
10. Provide a current SSAE16 audit of your recordkeeping system, or any other audit you have performed. Who completes the audit and how frequently?

Custodial Trustee

1. For the custody/trustee services you propose, what is the name of the trust company, the total number of years that they have been in operation, and the assets under custody as of December 31, 2014?
2. What are the total public deferred compensation assets currently held by the custodian?
3. Are there any restrictions by investment type that pertain to your custodial services? (Yes/No) If yes, what?

Section 2: Administrative Services

4. Confirm that you will trustee outside investment funds.
5. Do you have a limit on the number of checks/wires available to participants? (Yes/No)
6. Do you have an electronic link with the investment managers for updating participants' accounts on the recordkeeping system? (Yes/No)
7. Will the Plan be required to execute a custodial agreement with your custodial trustee or will it be part of the contract with the Plan? If a separate contract is required, please provide a sample.

Regulatory/Compliance Service

1. Describe how you monitor §401(a) (9) required minimum distributions including:
 - Identification of individuals
 - Determination of the amount of the minimum required payment
 - Payment within required deadlines.
2. Describe your capabilities and timeframes for monitoring maximum deferral limits and the catch-up provisions.
3. As part of your service, do you provide an annual benefits file, containing financial and non-financial data by participant? (Yes/No)
4. What resources do you have to obtain legal opinions, interpretations of laws, regulations, and other matters on issues pertaining to deferred compensation plans?
5. How do you ensure that your recordkeeping system is in compliance with all applicable rules and regulations?
6. How quickly are changes in the law reflected in the system?
7. Should the City wish to comply with 408(b)(2) and 404(a)(5) regulations, will you provide 408(b)(2) disclosures to the City and 404(a)(5) disclosures to participants? (Yes/No) If yes, is there an additional cost?

Communication & Education

1. Describe separately your initial and on-going communication and education program (including printed material, visits, training, etc.). Be sure to identify the key elements provided as part of a standard communication and education program package.
2. Provide samples of initial enrollment and on-going communication and education materials.
3. Describe the services you offer in the enrollment process. be sure to include such items as monitoring and tracking new hires. Outline any data requirements. Will you maintain and control the inventory of all related enrollment materials that are to be included in the enrollment kits?
4. Describe the communication and education process that you provide for non-active participants (i.e. retirees and terminated employees with assets in the Plan).

Section 2: Administrative Services

5. Will you provide participants with onsite, group education, and retirement planning sessions or financial/pre-retirement seminars on an on-going basis? (Yes/No). If yes, please list the titles of the subjects that are covered in your program. No description necessary.
6. Do you provide information to Plan participants regarding options on distributions? Describe any services or programs you provide for participants leaving the Plan.
7. Describe the City's role in the communication, education, and enrollment process.
8. To what extent can the City customize communication and investment education materials (e.g., plan name, logos)? State if there would be additional charges for customizing or editing these communication materials.
9. Are you willing to provide customized surveys to assess the success of the education program? (Yes/No). Will there be a charge for this service?

Plan Sponsor Reporting

1. Describe the standard reporting package that you would provide to the City (provide samples).
2. Will the City be able to generate these reports on-line?
3. What is the standard timeframe for providing each plan sponsor report after the reporting period ends?
4. List the types of demographic participant data will you be able to provide?
5. Describe your turn around time for providing quarterly investment asset reports to be used to conduct investment performance analysis.

Participant Reporting

1. Describe your standard participant statements and documents (provide samples).
2. Are there any differences between your hard copy statements and the statements available online? (Yes/No) If yes, briefly describe the differences.
3. What time periods are illustrated for a participant's personalized rate-of-return?
4. Describe your customization capabilities for participant statements. Are these applied to both hard copy and electronic statements? (Yes/No)
5. Are participants able to additionally customize the statements they receive (hard copy or electronic)? (Yes/No)
6. How much space is there for customized messages from the City on your quarterly participant statement? Is this included on both hard copy and electronic statements? (Yes/No) Is there an additional cost?
7. Can you include other printed information, prepared by the City, with the mailing of statements to participants? (Yes/No) Is this included on both hard copy and electronic statements? (Yes/No) If so, please verify that this service is available at no additional cost.

Section 2: Administrative Services

8. Are fees disclosed to plan participants on the quarterly statements? (Yes/No) Do they comply with 404(a)(5)? (Yes/No) What additional fee disclosure, if any, do you provide?
9. Do you provide reporting to participants on retirement readiness? If yes, how frequently? Are defined benefit estimates included? Provide samples.
10. If annual retirement readiness statements are required are there any additional costs associated with this service?

Participant Services/Automated Voice Response System (VRS)

1. Are there any transactions that cannot be processed through the voice response system (i.e., PIN changes, address changes, etc.)?
2. How quickly is the VRS updated after transactions are performed?
3. Is the VRS fully capable of generating all the necessary administrative forms to handle enrollments, hardships, terminations, and beneficiary distribution requests?
4. In the situation whereby a participant calls the VRS but does not properly complete the transaction, is there any follow-up with the participant? (Yes/No)
5. Can participants request contribution deduction changes through the VRS? (Yes/No) Can you provide a feedback report back to the City and each local subdivision to update their payroll records and contribution changes? (Yes/No) How frequently?
6. Does your VRS accommodate non-English speaking participants? What languages?
7. Does it accommodate the hearing/speech impaired participants?
8. Describe how data is secured within the system (i.e., PIN, audit trail, confirmations).
9. Describe any security breaches that resulted in improper access to one or more participant's accounts within the last three years and the steps you took to remedy the breach.

Participant Services/1-800 Customer Service Center

1. What are the standard hours of operation of your customer service center?
2. Where is your customer service center located?
3. Where is your back-up customer service center?
4. Are there any transactions that cannot be processed? If yes, what?
5. Can employees enroll in the Plan through the customer service center?
6. Can participants change their PIN through a CSR? Can PINs be reset and immediately provided to a participant during the call? Can participants who misplace their PIN call the customer service center and have a new PIN sent directly to their home address?

Section 2: Administrative Services

7. Provide the following information on your customer service reps:
 - a) Licensing requirements in addition to your training program
 - b) Relationship: employees or outside contractors
 - i. If contractors or a combination, include the percentage of each & duration of subcontractor agreement
 - c) Average tenure
 - d) Total CSR agents employed year-round basis
 - e) Compensation structure
8. Do you dedicate CSR's to specific accounts? (Yes/No) If yes, how many would be dedicated to the State?
9. Provide the information below on your service center standards:

	Performance Standard	4th quarter 2014	3rd quarter 2014	2nd quarter 2014
Number of calls				
Average length				
Average response time				
Percentage requiring follow-up				
Abandonment rate				
Percentage handled 100% via VRS versus 1-800				

Participant Services/Internet Services

1. Provide an Internet address and instructions on how to access a demonstration of your Internet capabilities for both the participant and plan sponsor.
 2. Describe your participant website capabilities.
 3. Specify any transactions that cannot be completed via your Internet site.
 4. Do you have a mobile app or mobile optimized website? (Yes/No) Are the limitations to the functionality versus the full site? (Yes/No) If yes, what?
 5. What communication materials or tools do you offer participants via the Internet?
 6. Do you offer an automated enrollment process through the Internet? (Yes/No)
 7. Do you offer an automated enrollment process through the Internet?
 8. Can participants e-mail account specific questions via the Internet site? (Yes/No) If yes, who receives the e-mail, researches the issue, and responds? What is the turnaround time?
-

Section 2: Administrative Services

9. Does your Internet site have the ability to download participant account information software programs (i.e. Quicken, Mint, etc.)? If yes, which programs?
10. Describe the security through which a participant passes to use your Internet system. What firewalls do you have in place for your Internet services?
11. What improvements to your Internet capabilities are designated to occur in the next two to three years?
12. Are the same improvements being made to your mobile capabilities? (Yes/No) If no, briefly describe what is being done to enhance your mobile capabilities.
13. Describe any online capabilities that your system provides for plan sponsor access.

Field Service Representatives

The City currently has 2 Retirement Specialists and 1 Office Manager that primarily service (they also service Shelby County and several other small entities surrounding Memphis) the City of Memphis and handle all servicing of the plan locally except for the loan process. Approximately 70% of their time is spent servicing the City of Memphis. The office is located at 2670 Union Extended, Memphis, TN 38112.

1. How many field service representatives are you dedicating to the City? Will they be 100% full-time dedicated representatives? Where will they be located in the City? Describe how you will allocate the field representatives to the City?
2. Provide your rationale for determining the appropriate staffing for the Plan.
3. Describe the structure of how the field service representatives would be organized to service this relationship:
 - a) Location
 - b) Staffing (including functions to be performed)
 - c) Standard hours of operation
 - d) How you would handle pre-scheduled consultations?
 - e) How you would handle walk-ins?
4. What is your annual cost associated for each dedicated service representative?
5. Briefly describe the credentials and related experience of local service representatives who will be assigned to the Plan's account.
6. If the representative are responsible for additional accounts, how many?
7. Will the representatives assigned to the Plan's Plan be employees of your firm?
8. Detail the compensation structure for the local representative (e.g. 85% salary, 15% bonus). Include an explanation of how any bonuses and incentives are determined. As indicated in the minimum service qualifications in Section 1, it is a requirement that your field service representatives that provide enrollment and education services are not compensated on a commissioned or incentive basis to promote any investment product or services.
9. Are field service representatives available to discuss the plan and investments with participants on a one-on-one basis? If so, how often? Will you provide local annual account reviews for participants?

Section 2: Administrative Services

10. How will these discussions be handled (e.g., in person, via telephone)?
11. Identify the annual number of group meetings and number of one-on-one consultations you have assumed will be provided by the field service representatives.

Investment Advisory Services

1. Describe the investment advisory services (i.e., Morningstar ClearFuture, Financial Engines, etc.).
2. Describe your due diligence process for selecting the partner and what services are provided.
3. What are the costs associated with the advisory services? Is it based on total plan level or only charged to participants who elect these services?
4. Describe the difference between your Internet investment education tools and software from your investment advisory services.
5. Does your service produce asset allocation recommendations? (Yes/No) Does it provide recommendations of specific funds? (Yes/No)
6. Does your investment advisory service include savings rate recommendations? (Yes/No)
7. Does your investment advisory service take into account a participant's assets outside the Plans? If so, please list what assets.
8. Describe the generally accepted investment theories that form the basis for your advice model.
9. By offering investment advisory services, either through your proprietary or third party provider, you will agree to indemnify the City per contract requirements.
 - What is disclosed to participants regarding your role as a fiduciary?
 - Describe the type and level of indemnification your organization is willing to provide to the City.
10. What is disclosed to participants regarding your fiduciary role and the provider's fiduciary role with respect to these investment advisory services?
11. How many of your existing public sector clients have subscribed for this service?
12. Do you provide "managed account" services that enable a participant to pay a fee for your firm or partner firm to provide discretionary management of investment decisions for that participant? (Yes/No) If yes, please explain. How long have you partnered with the managed account vendor?
13. Do you offer specific investment advice to participants on an in-person basis other than through the on-line advice provider? (Yes/No) If yes, briefly describe.
14. Will the City be required to execute a separate contract with your investment advisory provider or it be part of your service contract and agreements? If a separate contract is required, please provide a sample.

Plan Implementation

Section 2: Administrative Services

1. Explain your implementation/conversion process including timeframe, based upon a January 2016 conversion.
2. By what date would you need authority to proceed to accommodate a January 1, 2016 asset and recordkeeping transfer?
3. What involvement will be required from the City during the implementation process?
4. Do you have any limitations as to the format/media of participant data?
5. How are investments handled during the conversion process? How are distributions handled to accommodate the continuity of payments to retirees during the conversion period?
6. Describe your procedures during the conversion period to communicate with non-active employees (*i.e.* retirees and terminated employees with value in the plan).
7. What assurances/guarantees do you provide with respect to a timely implementation?
8. What is the standard length of your blackout period?
9. Identify comparable plan conversions in which you have been involved. How many conversions and implementations has your company conducted during the past three years involving 6,000 employees or more?

SECTION 3

Request for Qualification

Investment Management Services Questionnaire

Section 3: Investment Management Services

As noted above, the only investment option being considered by the City in this RFQ is the Stable Value fund. It is the City's expectation that the other assets will be transferred in-kind during the conversion.

Stable Value Fund:

1. List the stable value products available on your platform.
2. Provide your most recent ratings from A.M. Best, Moody's and S&P.
3. What stable value product are you proposing for the State and why?
4. For the proposed product, does old money receive the same rate as new? If not, describe.
5. Complete the following charts for the proposed product as of December 31, 2014:

Manager	
Vehicle	
Fund Name	
Class	
Fund Inception	
Fund Assets (\$B)	
Total Firm Stable Value Assets (\$B)	
Effective Duration	
Market-to-Book Value Ratio	
Gross Crediting Rate *	
Net Crediting Rate *	
Crediting Rate Reset Frequency	
Minimum Crediting Rate	
Recommended Benchmark	
Benchmark for Underlying Portfolio	
Expense Ratio	
Trustee	

** Gross of investment management fees, net of wrap fees, sub-advisory fees and other expenses*

Section 3: Investment Management Services

Book Value Structure

	% allocation
Liquidity Buffer	
Wrap Providers <i>Please list wrap providers below</i>	
Total	100%

6. Is wrap capacity contingent on affiliated investment management? (Yes/No)

Fees	
Investment Management	
Wrap	
Revenue Share	
Other	
Total Expense Ratio	

** Specify Other*

7. Do you anticipate any changes in wrap fees that would impact the total expense ratio? (Yes/No) If yes, what is the expected impact?

Quality Allocation	%
Cash/cash equivalents	
AAA	
AA	
A	
BBB	
Below Inv Grade	
NR	
Sector Allocation	%
Cash/cash equivalents	
U.S. Treasury	
U.S. Govt-Related	
Corporate	
Agency MBS	
Non-agency MBS	
ABS	
CMBS	
Municipal	
Other	

Section 3: Investment Management Services

8. Fully describe the withdrawal/transfer restrictions for both the Plan and participants.

9. Provide returns as of December 31, 2014 for the proposed product:

Trailing Returns	3-Mo.	YTD	1-Yr	3-Yr	5-Yr	7-Yr	10-Yr	Inception
Product								
Benchmark								
Annual Returns	2013	2012	2011	2010	2009	2008	2007	
Product								
Benchmark								

* Returns should be gross of investment management fees; net of wrap/subadvisor/other

* Periods greater than 1-year should be annualized

Investment Management Services

1. Provide the number of outside fund family alliances with which you have relationships.

2. Fund Performance:

- If the Plan is not satisfied with the performance of a particular fund, what are the steps needed to make a change?
- How long would it take to make such a change?
- Please confirm that there would be no cost to change funds.

3. Describe the administrative, financial and any other impact on the plan sponsor and the participants when a manager or fund offered to those participants ceases to be offered through your organization.

4. For any funds managed in-house:

- Describe your research capabilities, including the number of research professionals you employ.
- Indicate to what extent you rely on research information obtained from outside sources. List your sources and volume of business. How do you pay for these services?

5. Please describe your recordkeeping capabilities for exchange traded funds. Are the Plans able to offer exchange traded funds as part of the core investment line up?

SECTION 4

Request for Qualification

Administrative Fees

Section 4: Administrative Fees

The City requires approximately \$68,000 annually to cover the cost of eligible, ongoing plan expenses. In addition, the successful bidder will cover the Plan expenses for this search process, which is estimated to cost \$66,000. It is assumed these will be paid from revenue sharing from the investment options.

As described in the minimum qualification requirements, once awarded, the contract will begin **approximately January 1, 2016** for a period of **5-years**. The fee structure proposed must be guaranteed for the full contract term. The contract will be automatically renewed at the expiration of any term the contract should remain in effect on month-to-month basis unless either party provides to the other party one hundred twenty (120) days written notice of its intent not to renew the contract.

1. Are there any start-up/implementation costs?
2. Are there any termination costs?
3. Will you charge different fees for the 457 and 401(a)? If so, What are the factors you consider in determining future fee decreases and when they are to occur?
4. How are fees adjusted if a sizable number of participants are added or removed from the Plan?
5. If a participant has multiple accounts in the Plan, will they be charged for each account?
6. Will you agree to pay for the cost of printing, labels and postage for the mailing of any Deferred Compensation communications to plan participants as may be required during the course of the year.
7. Provide other alternatives not outlined in this proposal that could result in the lowering of participant fees. Be clear in your response and provide the condition and the result.

Based upon the information supplied in the RFQ, please complete the cost structure charts on the following pages. **Two scenarios are being requested: fee using a proprietary stable value and fee using a third party stable value.**

It is critical that you provide complete information so that fees can be compared on an equitable basis. If there are additional fees not listed, describe them, in detail, under "comments."

If assumptions are necessary, please fully explain your assumptions and quote the related fees on a unit cost basis, if possible.

Section 4: Administrative Fees

Fees for recordkeeping and administration

Proprietary stable value

	Year 1	Year 2	Year 3	Year 4	Year 5	Assumptions
Total required revenue for recordkeeping and administrative services (basis points)						
Total required revenue for recordkeeping and administrative services (per participant)						

Section 4: Administrative Fees

Fees for recordkeeping and administration

Proprietary stable value

	Year 1	Year 2	Year 3	Year 4	Year 5	Assumptions
Total required revenue for recordkeeping and administrative services (basis points)						
Total required revenue for recordkeeping and administrative services (per participant)						

Section 4: Administrative Fees

Plan Level Fees

	Fee	Comments
Plan Set-up/Installation (one-time fee)		
Plan Documents (outside of prototype)		
Check Processing		
1099R Forms		
Postage		
Custom website: Set-up/ongoing & software		
Employee Communication & Education:		
Customized enrollment materials		
Customized periodic newsletter		
Customized communications		
Annual notifications to all eligible participants		
Other (be specific)		

Participant Level Fees

	Fee	Comments
Loan Administration:		
<i>Set-up</i>		
<i>Maintenance</i>		
Hardship Qualifications		
DRO Qualifications		
Wire Fees		
Other (be specific)		

SECTION 5

Request for Qualification

Equal Business Opportunity (EBO) Program

SECTION 5: EBO Program

Interested contractors please verify (either through The Office of Contract Compliance or with the vendors themselves) that the business is still certified.

<http://www.cityofmemphis.org/Government/ExecutiveDivision/OfficeofContractCompliance.aspx>

EQUAL BUSINESS OPPORTUNITY (EBO) PROGRAM

This contract will be subject to the requirements of the City of Memphis Ordinance #5384 which establishes the Equal Business Opportunity ("EBO") Program. It is up to the Respondent to ensure that all requirements of this ordinance are met. The Ordinance may be accessed on the City's website at www.memphistn.gov under "Doing Business".

The intent of the EBO Program is to increase the participation of locally owned minority and women owned business enterprises ("M/WBE") in the City's purchasing activities. Toward achieving this objective, **the M/WBE participation goal for this solicitation is 10%**. However, M/WBE participation in this project is strongly encouraged and will be a factor in the proposal evaluation process. The percentage of M/WBE participation is defined as the dollar value of subcontracts awarded to certified minority and/or women business enterprises divided by the total proposed base bid amount. The participation for this project will be presented by each Vendor as part of their proposal.

Participation Plan

The Participation Plan must include: (1) level and dollar amount of participation your firm anticipates to achieve in the performance of contract resulting from this RFQ; (2) the type of work to be performed by the M/WBE participation; and (3) the names of the M/WBEs the Respondent plans to utilize in the performance of the contract resulting from this RFP.

Good Faith Efforts Documentation

If a Vendor proposes an M/WBE percentage less than the established goal, the Vendor must, at the time of the response, submit a Good Faith Efforts statement accompanied by the appropriate documentation justifying its submitted M/WBE percentage. The ability of the Vendor to perform the work with its own work force will not in itself excuse the Vendor from making good faith efforts to meet participation goals. The determination of whether a Vendor has made a good faith effort will be made by the City's Contract Compliance Officer, Director of Finance and the Purchasing Agent, prior to the award of the project.

Eligible M/WBE Firms

To qualify as an M/WBE firm, per the requirements of City of Memphis Ordinance #5384, a firm must be included on the City's list of certified M/WBE firms. **One or a combination of several M/WBEs may be utilized to meet the established goal of 10%.** Requests for verification must be submitted to the City's Contract Compliance Office listed below:

Mary L. Bright
City of Memphis
Contract Compliance Officer
Mary.Bright@memphistn.gov
125 North Main Street, Suite 546
Memphis, TN 38103
Phone: (901) 576-6210
Fax: (901) 576-6560

SECTION 5: EBO Program

EQUAL BUSINESS OPPORTUNITY PROGRAM COMPLIANCE FORM

Project M/WBE GOAL: 10%

The following sections must be completed by bidder. A certified subcontractor or supplier is defined as a firm from the list of certified firms provided with this specification.

Bidder's Name

Section A - If the bidder is a certified firm, so indicate here with a check mark.

_____ MBE _____ WBE

Section B - Identify below those certified firms that will be employed as subcontractors or suppliers on this project. By submitting this bid, the bidder commits to the use of the firms listed below.

\$ = Show the dollar value of the subcontract to be awarded to this firm

% = Show the percentage this subcontract is of your base bid

M/WBE = Show by inserting an M or W whether the subcontractor is an MBE or WBE

\$ / %	M/WBE	SERVICE	CERTIFIED SUBCONTR. NAME, ADDRESS, TEL.#

Total	\$	%
MBE		
WBE		

SECTION 5: EBO Program

THIS FORM and SUPPORTING DOCUMENTATION MUST BE SUBMITTED WITH THE BID OR THE BID WILL BE CONSIDERED NON-CONFORMING.

CITY OF MEMPHIS GOOD FAITH EFFORT DOCUMENTATION FORM

To The Honorable Mayor City of Memphis, Tennessee
From:

VENDOR NAME _____
PROJECT TITLE: RFQ for 457(b) Plan and 401(a) Plan

Enclosed please find the required documents:

Said Vendor ____ did / or ____ did not attend the project pre-bid meeting.

***Copies of all written notification to City of Memphis M/WBE listed firms. (Please attach list of all firms notified, detail how they were notified and when).**

Said Vendor ____ did / or ____ did not select economically feasible portions of the work to be performed by M/WBE firms.

***List all M/WBE firms with which negotiations took place. (Attach list. If no negotiations were held, please state so.) Provide names, addresses, and dates of negotiations.**

***Statement of efforts to assist M/WBE firms, with bonding, insurance, financing, or with document review. (Attach list. If no assistance was provided, please state so.)**

The Vendor ____ did / or ____ did not use all M/WBE quotations received. If the Vendor did not use all M/WBE quotations received, list on attached sheets, as required as to the reasons those quotes were not used.

***List (on attached sheets as required) all M/WBE firms contacted that the bidder considered not to be qualified, and a statement of the reasons for the bidder's conclusions. If no firms were found to be non-qualified, please state so.**

THIS SIGNED FORM AND REQUESTED DOCUMENTATION (noted by an asterisk '*') MUST BE SUBMITTED WITH THE BID IF THE VENDOR DOES NOT MEET THE REQUIRED M/WBE PROJECT GOAL. IF REQUESTED DOCUMENTATION IS NOT SUBMITTED THE BID WILL BE CONSIDERED NON-CONFORMING.

Vendor's Name

Signature

Printed or Typed Name and Title

SECTION 6:

Appendices

Appendix A

Appendix B

Appendix A

457 GOVERNMENTAL PLAN AND TRUST

The Employer adopts this 457 Governmental Plan and Trust. The Plan is intended to be an "eligible deferred compensation plan" as defined in Code §457(b) of the Internal Revenue Code of 1986 ("Eligible 457 Plan"). The Plan consists of the provisions set forth in this plan document and is applicable to the Employer and each Employee who elects to participate in the Plan. If the Employer adopts this Plan as a restated Plan in substitution for, and in amendment of, an existing plan, the provisions of this Plan, as a restated Plan, apply solely to an Employee on or after the execution of this Plan. The Plan is effective as to each Employee upon the date he/she becomes a Participant by entering into and filing with the Employer or the Administrative Services Provider a Participation Agreement or an Acknowledgement Form/Card.

ARTICLE I DEFINITIONS

1.01 "**Account**" means the separate Account(s) which the Administrative Services Provider or the Trustee maintains under the Plan for a Participant's Deferred Compensation. The Administrative Services Provider or Trustee may establish separate Accounts for multiple Beneficiaries of a Participant to facilitate required minimum distributions under Section 4.03 based on each Beneficiary's life expectancy.

1.02 "**Accounting Date**" means the last day of the Plan Year.

1.03 "**Acknowledgement Form/Card**" means the application to the Administrative Services Provider to participate in the Plan when the Plan is a Social Security replacement plan.

1.04 "**Administrative Services Provider**" means Nationwide Retirement Solutions, Inc. which acts as the third party administrative services provider appointed by the Employer to carry out nondiscretionary administrative functions for the Plan.

1.05 "**Beneficiary**" means a person who the Plan or a Participant designates and who is or may become entitled to a Participant's Account upon the Participant's death. A Beneficiary who becomes entitled to a benefit under the Plan remains a Beneficiary under the Plan until the Beneficiary has received full distribution of his/her Plan benefit. A Beneficiary's right to (and the Administrative Services Provider's or a Trustee's duty to provide to the Beneficiary) information or data concerning the Plan does not arise until the Beneficiary first becomes entitled to receive a benefit under the Plan.

1.06 "**Code**" means the Internal Revenue Code of 1986, as amended.

1.07 "**Compensation**" for purposes of allocating Deferral Contributions means the employee's wages, salaries, fees for professional services, and other amounts received without regard to whether or not an amount is paid in cash for personal services actually rendered in the course of employment with the Employer, to the extent that the amounts are includible in gross income (or to the extent amount would have been received and includible in gross income but for an election under Code §§ 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), and 457(b), including an election to defer Compensation under Article III. See Section 1.16 as to Compensation for an Independent Contractor. Compensation also includes any amount that the Internal Revenue Service in published guidance declares to constitute compensation for purposes of an Eligible 457 Plan.

(A) **Elective Contributions.** Compensation under Section 1.07 includes Elective Contributions. "Elective Contributions" are amounts excludible from the Employee's gross income under Code § 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b), 408(p) or 457, and contributed by the Employer, at the Employee's election, to a cafeteria plan, a qualified transportation fringe benefit plan, a 401(k) arrangement, a SARSEP, a tax-sheltered annuity, a SIMPLE plan or a Code § 457 plan.

(B) **Differential wage payments.** For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code § 3401(h)(2), shall be treated as an employee of the employer making the payment; (ii) the differential wage payment shall be treated as compensation; and (iii) the plan will not be treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

1.08 "**Deferral Contributions**" means Salary Reduction Contributions, Nonelective Contributions and Matching Contributions. The Employer or the Administrative Services Provider (if applicable) in applying the Code § 457(b) limit will take into account Deferral Contributions in the Taxable Year in which deferred. The Employer or Administrative Services Provider (if applicable) in determining the amount of a Participant's Deferral Contributions disregards the net income, gain and loss attributable to Deferral Contributions.

1.09 "**Deferred Compensation**" means as to a Participant the amount of Deferral Contributions,

Rollover Contributions and Transfers adjusted for allocable net income, gain or loss, in the Participant's Account.

1.10 **"Effective Date"** of this Plan is the date indicated on the execution line unless the Code, Treasury regulations, or other applicable guidance provides otherwise.

1.11 **"Employee"** means an individual who provides services for the Employer, as a common law employee of the Employer. See Section 1.16 regarding potential treatment of an Independent Contractor as an Employee.

1.12 **"Employer"** means an employer who adopts this Plan by executing the Plan.

1.13 **"Employer Contribution"** means Nonelective Contributions or Matching Contributions.

1.14 **"Excess Deferrals"** means Deferral Contributions to an Eligible 457 Plan for a Participant that exceed the Taxable Year maximum limitation of Code § 457(b) and (e)(18).

1.15 **"Includible Compensation"** means, for the Employee's Taxable Year, the Employee's total Compensation within the meaning of Code § 415(c)(3) paid to an Employee for services rendered to the Employer. Includible Compensation includes Deferral Contributions under the Plan, compensation deferred under any other plan described in Code § 457, and any amount excludible from the Employee's gross income under Code §§ 401(k), 403(b), 125 or 132(f)(4) or any other amount excludible from the Employee's gross income for Federal income tax purposes. The Employer will determine Includible Compensation without regard to community property laws.

1.16 **"Independent Contractor"** means any individual who performs service for the Employer and who the Employer does not treat as an Employee or a Leased Employee. The Employer may permit Independent Contractors to participate in the Plan. To the extent that the Employer permits Independent Contractor participation, references to Employee in the Plan include Independent Contractors and Compensation means the amounts the Employer pays to the Independent Contractor for services.

1.17 **"Leased Employee"** means an Employee within the meaning of Code § 414(n).

1.18 **"Matching Contribution"** means an Employer fixed or discretionary contribution made or forfeiture allocated on account of Salary Reduction Contributions. The Employer may provide for matching contributions.

1.19 **"Nonelective Contribution"** means an Employer fixed or discretionary contribution not made as a result of a Participation Agreement and which is not a Matching Contribution. The Employer may provide for nonelective contributions.

1.20 **"Normal Retirement Age"** means the age designated by the Participant unless the Employer designates in writing a Normal Retirement Age. The Normal Retirement Age designated by the Participant or Employer shall be no earlier than age 65 or the age at which Participants have the right to retire and receive, under the basic defined benefit pension plan of the Employer (or a money purchase plan in which the Participant also participates if the Participant is not eligible to participate in a defined benefit plan), immediate retirement benefits without actuarial or similar reduction because of retirement before some later specified age. The Normal Retirement Age also shall not exceed age 70 1/2.

Special Rule for Eligible Plans of Qualified Police or Firefighters. A Participant who is a qualified police officer or firefighter as defined under Code § 415(b)(2)(H)(ii)(I) may designate a Normal Retirement Age between age 40 and age 70 1/2.

1.21 **"Participant"** is an Employee who elects to participate in the Plan in accordance with the provisions of Section 2.01 or an individual who has previously deferred Compensation under the Plan by a Participation Agreement and has not received a complete distribution of his/her Account.

1.22 **"Participation Agreement"** means the agreement to enroll and participate in the Plan that is completed by the Participant and provided to the Administrative Services Provider. The Participation Agreement is the agreement, by which the Employer reduces the Participant's Compensation for contribution to the Participant's Account.

1.23 **"Plan"** means the 457 plan established or continued by the Employer in the form of this Plan and (if applicable) Trust Agreement. All section references within the Plan are Plan section references unless the context clearly indicates otherwise.

1.24 **"Plan Entry Date"** means the date on which an Employee completes and files a Participation Agreement with the Administrative Services Provider.

1.25 **"Plan Year"** means the calendar year.

1.26 **"Rollover Contribution"** means the amount of cash or property which an eligible retirement plan described in Code § 402(c)(8)(B) distributes to an eligible Employee or to a Participant in an eligible rollover distribution under Code § 402(c)(4) and which the eligible Employee or Participant transfers directly or indirectly to an

457 Governmental Plan and Trust

Eligible 457 Plan. A Rollover Contribution includes net income, gain or loss attributable to the Rollover Contribution. A Rollover Contribution excludes after-tax Employee contributions, as adjusted for net income, gain or loss.

1.27 "Salary Reduction Contribution" means a contribution the Employer makes to the Plan pursuant to a Participation Agreement.

1.28 "Service" means any period of time the Employee is in the employ of the Employer. In the case of an Independent Contractor, Service means any period of time the Independent Contractor performs services for the Employer on an independent contractor basis. An Employee or Independent Contractor terminates Service upon incurring a Severance from Employment.

(A) Qualified Military Service. Service includes any qualified military service the Plan must credit for contributions and benefits in order to satisfy the crediting of Service requirements of Code §414(u). A Participant whose employment is interrupted by qualified military service under Code §414(u) or who is on a leave of absence for qualified military service under Code §414(u) may elect to make additional Salary Reduction Contributions upon resumption of employment with the Employer equal to the maximum Deferral Contributions that the Participant could have elected during that period if the Participant's employment with the Employer had continued (at the same level of Compensation) without the interruption of leave, reduced by the Deferral Contributions, if any, actually made for the Participant during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave). The Employer shall make appropriate make-up Nonelective Contributions and Matching Contributions for such a Participant as required under Code §414(u). The Plan shall apply limitations of Article III to all Deferral Contributions under this paragraph with respect to the year to which the Deferral Contribution relates.

(B) "Continuous Service" means Service with the Employer during which the Employee does not incur a Severance from Employment.

(C) "Severance from Employment."

(1) Employee. An Employee has a Severance from Employment when the Employee ceases to be an Employee of the Employer. A Participant does not incur a Severance from Employment if, in connection with a change in employment, the Participant's new employer continues or assumes sponsorship of the Plan or accepts a Transfer of Plan assets as to the Participant.

(2) Independent Contractor. An Independent

Contractor has a Severance from Employment when the contract(s) under which the Independent Contractor performs services for the Employer expires (or otherwise terminates), unless the Employer anticipates a renewal of the contractual relationship or the Independent Contractor becoming an Employee. The Employer anticipates renewal if it intends to contract for the services provided under the expired contract and neither the Employer nor the Independent Contractor has eliminated the Independent Contractor as a potential provider of such services under the new contract. Further, the Employer intends to contract for services conditioned only upon the Employer's need for the services provided under the expired contract or the Employer's availability of funds. Notwithstanding the preceding provisions of this Section 1.28, the Administrative Services Provider will consider an Independent Contractor to have incurred a Severance from Employment: (a) if the Administrative Services Provider or Trustee will not pay any Deferred Compensation to an Independent Contractor who is a Participant before a date which is at least twelve months after the expiration of the Independent Contractor's contract (or the last to expire of such contracts) to render Services to the Employer; and (b) if before the applicable twelve-month payment date, the Independent Contractor performs Service as an Independent Contractor or as an Employee, the Administrative Services Provider or Trustee will not pay to the Independent Contractor his/her Deferred Compensation on the applicable date.

(3) Uniformed Services. for purposes of distributions to an individual in the uniformed services, such individual will be treated as incurring a Severance from Employment during any period the individual is performing service in the uniformed services described in Code § 3401(h)(2)(A). However, the plan will not distribute the benefit to such an individual without that individual's consent, so long as the individual is receiving differential wage payments.

If an individual elects to receive a distribution under this provision, the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

1.29 "State" means (a) one of the 50 states of the United States or the District of Columbia, or (b) a political subdivision of a State, or any agency or instrumentality of a State or its political subdivision. A State does not include the federal government or any agency or instrumentality thereof.

1.30 "Taxable Year" means the calendar year or other taxable year of a Participant.

1.31 "Transfer" means a transfer of Eligible 457 Plan assets to another Eligible 457 Plan which is not a Rollover Contribution and which is made in accordance with Section 9.03.

1.32 "Trust" means the Trust created under the adopting Employer's Plan. The Trust created and established under the adopting Employer's Plan is a separate Trust, independent of the trust of any other Employer adopting this Eligible 457 Plan and is subject to Article VIII.

1.33 "Trustee" means the person or persons designated by the Employer to serve in the position of Trustee.

ARTICLE II PARTICIPATION IN PLAN

2.01 ELIGIBILITY. Each Employee becomes a Participant in the Plan as soon as he/she completes and files a Participation Agreement. If this Plan is a restated Plan, each Employee who was a Participant in the Plan on the day before the Effective Date continues as a Participant in the Plan.

2.02 PARTICIPATION UPON RE-EMPLOYMENT. A Participant who incurs a Severance from Employment will re-enter the Plan as a Participant on the date of his/her re-employment.

2.03 SPECIAL ELIGIBILITY PROVISIONS FOR PARTICIPANTS IN A PLAN USED AS A SOCIAL SECURITY REPLACEMENT PLAN. Notwithstanding any provision to the contrary, the provisions of this Section 2.03 will apply if the Employer elects in a written agreement with the Administrative Services Provider to use the Plan as a Social Security replacement plan. If the Plan is used as a Social Security replacement plan, the provisions of Sections 4.05(a) and 5.03 will not apply.

(A) **Eligibility to participate for new Employees.** A new Employee shall, as a condition of employment participate in the Plan sign and file with the Administrative Services Provider an Acknowledgement Form/Card and thereby consenting to a reduction of salary by the amount of the Deferral Contribution specified in the Acknowledgement Form/Card. Contributions to the Participant's Account must equal at least 7.5% of the Participant's Compensation, or such other minimum amount as shall be required for the Plan to be considered a retirement system under Code §3121(b)(7)(F) and Treas. Reg. 31.3121(b)(7)-2, and the reduction in the Participant's salary shall begin immediately thereafter.

(B) **Eligibility to participate for current Employees.** An Employee who is newly eligible to participate in the Plan shall, prior to becoming eligible to participate in the Plan, sign and file with the Administrative Services Provider an

Acknowledgement Form/Card and thereby consent to a reduction of salary by the amount of the Deferral Contribution specified in the Acknowledgement Form/Card. Allocations to the Participant's Account must equal at least 7.5% of the Participant's Compensation or such other minimum amount as shall be required for the Plan to be considered a retirement system under Code §3121 (b)(7)(F) and Treas. Reg. §31.3121(b)(7)-2, and the reduction in the Participant's salary shall begin no earlier than the first pay period commencing during the first month after the date on which the Acknowledgement Form/Card is filed with the Administrative Services Provider.

(C) **Takeover Plans.** If the Plan is a restated Plan, an Employee who participated in the predecessor plan shall become a Participant in the Plan upon the Employer's execution of the enabling documents for this Plan. Allocations to each such Participant's Account must equal at least 7.5% of the Participant's Compensation, or such other minimum amount as shall be required for the Plan to be considered a retirement system under Code §3121 (b)(7)(F) and Treas. Reg. §31.3121(b)(7)-2, and the reduction in the Participant's salary shall begin immediately thereafter.

ARTICLE III DEFERRAL CONTRIBUTIONS/LIMITATIONS

3.01 AMOUNT.

(A) **Contribution Formula.** For each Plan Year, the Employer will contribute to the Plan the amount of Deferral Contributions the Employee elects to defer under the Plan.

(B) **Return of Contributions.** The Employer contributes to this Plan on the condition its contribution is not due to a mistake of fact. If any Participant Salary Reduction Contribution is due to a mistake of fact, the Employer or the Trustee upon written request from the Employer will return the Participant's contribution, within one year after payment of the contribution.

The Trustee may require the Employer to furnish it whatever evidence the Trustee deems necessary to enable the Trustee to confirm the amount the Employer has requested be returned is properly returnable.

(C) **Time of Payment of Contribution.** An Employer will deposit Salary Reduction Contributions to the Trust within a period that is not longer than is reasonable for the administration of Participant Accounts. Neither the Administrative Services Provider nor the Trustee is responsible for the delay of deposits of Salary Reduction Contributions caused by the Employer.

3.02 SALARY REDUCTION CONTRIBUTIONS. The Plan does not apply any limitations on Salary Reduction Contributions other than the limitations applicable under the Code.

(A) Deferral from Sick, Vacation and Back Pay. Participants may make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.

(B) Application to Leave of Absence and Disability. The Participation Agreement will continue to apply during the Participant's leave of absence or the Participant's disability (as the Employer shall establish), if the Participant has Compensation other than imputed compensation or disability benefits.

(C) Post-severance deferrals limited to Post-Severance Compensation. Deferral Contributions are permitted from an amount received following Severance from Employment only if the amount is Post-Severance Compensation.

Post-Severance Compensation defined. Post-Severance Compensation includes the amounts described in (1) and (2) below, paid after a Participant's Severance from Employment with the Employer, but only to the extent such amounts are paid by the later of 21/2 months after Severance from Employment or the end of the calendar year that includes the date of such Severance from Employment.

(1) Regular pay. Post-Severance Compensation includes regular pay after Severance of Employment if: (i) the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and (ii) the payment would have been paid to the Participant prior to a Severance from Employment if the Participant had continued in employment with the Employer.

(2) Leave cashouts. Post-Severance Compensation includes leave cashouts if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's Severance from Employment, and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) Salary continuation payments for military service Participants. Post-Severance Compensation includes payments to an individual who does not currently perform services for the Employer by reason of Qualified Military Service (as described in

Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering Qualified Military Service.

Limitation on Post-Severance Compensation. Any payment of Compensation paid after Severance of Employment that is not described in Section 3.02(C)(1) or 3.02(C)(2) is not Post-Severance Compensation, even if payment is made by the later of 21/2 months after Severance from Employment or by the end of the calendar year that includes the date of such Severance of Employment.

3.03 NORMAL LIMITATION. Except as provided in Sections 3.04 and 3.05, a Participant's maximum Deferral Contributions (excluding Rollover Contributions and Transfers) under this Plan for a Taxable Year may not exceed the lesser of:

(a) The applicable dollar amount as specified under Code §457(e)(15) (or, beginning January 1, 2006) such larger amount as the Commissioner of the Internal Revenue may prescribe), or

(b) 100% of the Participant's Includible Compensation for the Taxable Year.

3.04 NORMAL RETIREMENT AGE CATCH-UP CONTRIBUTION. For one or more of the Participant's last three Taxable Years ending before the Taxable Year in which the Participant attains Normal Retirement Age, the Participant's maximum Deferral Contributions may not exceed the lesser of:

(a) Twice the dollar amount under Section 3.03 normal limitation, or (b) the underutilized limitation.

(A) Underutilized Limitation. A Participant's underutilized limitation is equal to the sum of: (i) the normal limitation for the Taxable Year, and (ii) the normal limitation for each of the prior Taxable Years of the Participant commencing after 1978 during which the Participant was eligible to participate in the Plan and the Participant's Deferral Contributions were subject to the normal limitation or any other Code § 457(b) limit, less the amount of Deferral Contributions for each such prior Taxable Year, excluding age 50 catch-up contributions.

(B) Multiple 457 Plans. If the Employer maintains more than one Eligible 457 Plan, the Plans may not permit any Participant to have more than one Normal Retirement Age under the Plans.

(C) Pre-2002 Coordination. In determining a Participant's underutilized limitation, the

coordination rule in effect under now repealed Code §457(c)(2) applies. Additionally, the normal limitation for pre-2002 Taxable Years is applied in accordance with Code § 457(b)(2) as then in effect.

3.05 AGE 50 CATCH-UP CONTRIBUTION. All Employees who are eligible to make Salary Reduction Contributions under this Plan and who have attained age 50 before the close of the Taxable Year are eligible to make age 50 catch-up contributions for that Taxable Year in accordance with, and subject to the limitations of, Code § 414(v). Such catch-up contributions are not taken into account for purposes of the provisions of the plan implementing the required limitations of Code § 457. If, for a Taxable Year, an Employee makes a catch-up contribution under Section 3.04, the Employee is not eligible to make age 50 catch-up contributions under this Section 3.05. A catch-up eligible Participant in each Taxable Year is entitled to the greater of the amount determined under Section 3.04 or Section 3.05 catch-up amount plus the Section 3.03 normal limitation.

3.06 CONTRIBUTION ALLOCATION. The Administrative Services Provider will allocate to each Participant's Account his/her Deferral Contributions.

3.07 ALLOCATION CONDITIONS. The Plan does not impose any allocation conditions.

3.08 ROLLOVER CONTRIBUTIONS. The Plan permits Rollover Contributions.

(A) Operational Administration. The Employer, operationally and on a nondiscriminatory basis, may elect to permit or not to permit Rollover Contributions to this Plan or may elect to limit an eligible Employee's right or a Participant's right to make a Rollover Contribution. If the Employer permits Rollover Contributions, any Participant (or as applicable, any eligible Employee), with the Employer's written consent and after filing with the Trustee the form prescribed by the Administrative Services Provider, may make a Rollover Contribution to the Trust. Before accepting a Rollover Contribution, the Trustee may require a Participant (or eligible Employee) to furnish satisfactory evidence the proposed transfer is in fact a "Rollover Contribution" which the Code permits an employee to make to an eligible retirement plan. The Trustee, in its sole discretion, may decline to accept a Rollover Contribution of property which could: (1) generate unrelated business taxable income; (2) create difficulty or undue expense in storage, safekeeping or valuation; or (3) create other practical problems for the Trust.

(B) Pre-Participation Rollover. If an eligible Employee makes a Rollover Contribution to the Trust prior to satisfying the Plan's eligibility conditions,

the Administrative Services Provider and Trustee must treat the Employee as a limited Participant (as described in Rev. Rul. 96-48 or in any successor ruling). If a limited Participant has a Severance from Employment prior to becoming a Participant in the Plan, the Trustee will distribute his/her Rollover Contributions Account to the limited Participant in accordance with Article IV.

(C) Separate Accounting. If an Employer permits Rollover Contributions, the Administrative Services Provider must account separately for: (1) amounts rolled into this Plan from an eligible retirement plan (other than from another Eligible 457 plan); and (2) amounts rolled into this Plan from another Eligible 457 Plan. The Administrative Services Provider for purposes of ordering any subsequent distribution from this Plan may designate a distribution from a Participant's Rollover Contributions as coming first from either of (1) or (2) above if the Participant has both types of Rollover Contribution Accounts.

3.09 DISTRIBUTION OF EXCESS DEFERRALS. In the event that a Participant has Excess Deferrals, the Plan will distribute to the Participant the Excess Deferrals and allocable net income, gain or loss, in accordance with this Section 3.09.

The Administrative Services Provider will distribute Excess Deferrals from an Eligible 457 Plan as soon as is reasonably practicable following the Administrative Services Provider's or Employer's determination of the amount of the Excess Deferral.

(A) Plan Aggregation. If the Employer maintains more than one Eligible 457 Plan, the Employer must aggregate all such Plans in determining whether any Participant has Excess Deferrals.

(B) Individual Limitation. If a Participant participates in another Eligible 457 Plan maintained by a different employer, and the Participant has Excess Deferrals, the Administrative Services Provider may, but is not required, to correct the Excess Deferrals by making a corrective distribution from this Plan.

3.10 DOLLAR LIMITS. The table below shows the applicable dollar amounts described in paragraph 3.03(a) and limitations on age 50 catch-up contributions described in Section 3.05. These amounts are adjusted after 2006 for changes in the cost-of-living to the extent permitted in Code § 415(d).

Year	Applicable Dollar Amount	Age 50+ Catch-up Contribution Limitation
2002	\$11,000	\$1,000
2003	\$12,000	\$2,000
2004	\$13,000	\$3,000
2005	\$14,000	\$4,000
2006	\$15,000	\$5,000

ARTICLE IV TIME AND METHOD OF PAYMENT OF BENEFITS

4.01 DISTRIBUTION

RESTRICTIONS. Except as the Plan provides otherwise, the Administrative Services Provider or Trustee may not distribute to a Participant his/her Account prior to the Participant's Severance from Employment, or such other event for which federal legislation is enacted or regulatory relief granted permitting the Plan to make distributions to qualifying Participants.

(A) Distribution of Rollover Contributions. To the extent the Employer permits Rollover Contributions (but not Transfers) to this Plan, a Participant may receive a distribution of such Rollover Contributions without regard to the restrictions found in this Section 4.01.

4.02 TIME AND METHOD OF PAYMENT OF ACCOUNT. The Administrative Services Provider, or Trustee at the direction of the Administrative Services Provider, will distribute to a Participant who has incurred a Severance from Employment the Participant's Account under one or any combination of payment methods elected by the Participant. The Participant may elect one of the following methods of payment: (1) lump sum payment, (2) partial lump sum payment, (3) installment, or (4) an annuity. In no event will the Administrative Services Provider direct (or direct the Trustee to commence) distribution, nor will the Participant elect to have distribution commence, later than the Participant's required beginning date, or under a method that does not satisfy Section 4.03.

Subject to any restrictions imposed by the Participant's investment providers and the Administrative Services Provider, the Participant: (1) may elect to commence distribution no earlier than is administratively practical following Severance from Employment; (2) may elect to postpone distribution of his/her Account to any fixed or determinable date including, but not beyond, the Participant's required beginning date; and (3) may elect the method of payment. A Participant may elect the timing and method of payment of his/her Account no later than 30 days before the date the Participant first would be eligible to commence payment of the Participant's

Account. The Administrative Services Provider must furnish to the Participant a form for the Participant to elect the time and a method of payment.

4.03 REQUIRED MINIMUM DISTRIBUTIONS. The Administrative Services Provider may not distribute nor direct the Trustee to distribute the Participant's Account, nor may the Participant elect any distribution his/her Account, under a method of payment which, as of the required beginning date, does not satisfy the minimum distribution requirements of Code § 401 (a)(9) or which is not consistent with applicable Treasury regulations.

(A) General Rules.

(1) Precedence. The requirements of this Section 4.03 will take precedence over any inconsistent provisions of the Plan.

(2) Requirements of Treasury Regulations Incorporated. All distributions required under this Section 4.03 will be determined and made in accordance with the Treasury regulations under Code § 401(a)(9).

(B) Time and Manner of Distribution

(1) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

(2) Death of Participant Before Distribution Begins. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) Spouse Designated Beneficiary. If the Participant's surviving spouse is the Participant's sole designated Beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant dies, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(b) Non-Spouse Designated Beneficiary. If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(c) No Designated Beneficiary. If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(d) **Death of Spouse.** If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 4.03(B)(2) other than Section 4.03(B)(2)(a), will apply as if the surviving spouse were the Participant.

For purposes of this Section 4.03(B) and Section 4.03(D), unless Section 4.03(B)(2)(d) applies, distributions are considered to begin on the Participant's required beginning date. If Section 4.03(B)(2)(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a), the date distributions are considered to begin is the date distributions actually commence.

(3) **Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 4.03(C) and 4.03(D). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 4.01(a)(9) of the Code and the Treasury regulations.

(C) Required Minimum Distributions during Participant's Lifetime.

(1) **Amount of Required Minimum Distribution for Each Distribution Calendar Year.** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(a) **ULT.** The quotient obtained by dividing the Participant's account balance by the number in the Uniform Life Table set forth in Treas. Reg. § 1.401(a)(9)-9, using the Participant's attained age as of the Participant's birthday in the distribution calendar year; or

(b) **Younger Spouse.** If the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Treas. Reg. § 1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(2) **Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.** Required minimum distributions will be determined under this Section 4.03(C) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(D) Required Minimum Distributions after Participant's Death.

(1) Death On or After Distributions Begin.

(a) **Participant Survived by Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for the distribution calendar year of the Participant's death is obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant. The Participant's remaining life expectancy is calculated using the attained age of the Participant as of the Participant's birthday in the calendar year of death. For each distribution calendar year after the year of the Participant's death, the minimum amount that will be distributed is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary.

(b) **No Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the calendar year after the calendar year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the calendar year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the attained age of the Participant as of the Participant's birthday in the calendar year of death, reduced by one for each subsequent calendar year.

(2) Death before Date Distributions Begin.

(a) **Participant Survived by Designated Beneficiary.** If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 4.03(D)(1).

(b) **No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the

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Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a), this Section 4.03(D)(2) will apply as if the surviving spouse were the Participant.

(E) Definitions

(1) Designated Beneficiary. The individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code §401 (a)(9) and Treas. Reg. § 1.401 (a)(9)-1, Q&A-4.

(2) Distribution calendar year. A distribution calendar year means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which the distributions are required to begin under Section 4.03(B)(2). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(3) Life expectancy. Life expectancy as computed by use of the Single Life Table in Treas. Reg. § 1.401 (a)(9)-9.

(4) Participant's account balance. The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any Rollover Contributions or Transfers to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(5) Required beginning date. A Participant's required beginning date is the April 1 of the calendar year following the later of: (1) the calendar year in which the Participant attains age 70½, or (2) the calendar year in which the Participant retires or such other date under Code § 401 (a)(9) by which required minimum distributions must commence.

(F) General 2009 waiver. The requirements of Code § 401(a)(9) and the provisions of the Plan relating thereto, will not apply for the distribution calendar year 2009.

(1) Special rule regarding waiver period. For purposes of Code § 401(a)(9) and the provisions of the Plan relating thereto: (a) the required beginning date with respect to any individual will be determined without regard to this Article IV for purposes of applying Code § 401(a)(9) for distribution calendar years other than 2009; and (b) if the 5-year rule of Code § 401(a)(9)(B)(ii) applies, the 5-year period described therein shall be determined without regard to calendar year 2009.

(2) Eligible rollover distributions. If all or any portion of a distribution during 2009 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under Code § 401(a)(9) had applied during 2009, then the Plan will not treat such distribution as an eligible rollover distribution for purposes of the direct rollover rules of Code § 401(a)(31), the notice requirements of Code §402(f), or the 20% withholding requirement of Code § 3405(c).

(3) Participant may elect. The Plan will permit an affected Participant to elect whether to receive his/her RMD distribution for 2009. If the Participant fails to notify the Administrative Services Provider of his/her waiver, the Plan will distribute the 2009 RMD to the Participant.

4.04 DEATH BENEFITS. Upon the death of the Participant, the Administrative Services Provider must pay or direct the Trustee to pay the Participant's Account in accordance with Section 4.03. Subject to Section 4.03, a Beneficiary may elect the timing and method of payment in the same manner as a Participant may elect under Section 4.02, if such elections apply.

In the case of a death occurring on or after January 1, 2007, if a participant dies while performing qualified military service (as defined in Code § 414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the participant had resumed and then terminated employment on account of death.

4.05 DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT. Notwithstanding the Section 4.01 distribution restrictions, the Plan permits the following in-service distributions in accordance with this Section.

(A) Unforeseeable Emergency. In the event of a Participant's unforeseeable emergency, the Administrative Services Provider may make a distribution to a Participant who has not incurred a Severance from Employment.

An unforeseeable emergency is a severe financial hardship of a Participant or Beneficiary resulting from: (1) illness or accident of the Participant, the Participant's Beneficiary, or the Participant's spouse or dependent (as defined in Code § 152, and, for taxable years beginning on or after January 1, 2005, without regard to Code § 152(b)(1), (b)(2), and (d)(1)(B)); (2) loss of the Participant's or Beneficiary's property due to casualty; (3) the need to pay for the funeral expenses of the Participant's spouse or dependent (as defined in Code § 152, and, for taxable years beginning on or after January 1, 2005, without regard to Code § 152(b)(1), (b)(2), and (d)(1)(B)); or (4) other similar extraordinary and unforeseeable circumstances arising from events beyond the Participant's or Beneficiary's control. The Administrative Services Provider will not pay the Participant or the Beneficiary more than the amount reasonably necessary to satisfy the emergency need, which may include amounts necessary to pay taxes or penalties on the distribution. The Administrative Services Provider will not make payment to the extent the Participant or Beneficiary may relieve the financial hardship by cessation of deferrals under the Plan, through insurance or other reimbursement, or by liquidation of the individual's assets to the extent such liquidation would not cause severe financial hardship.

The Participant's Beneficiary is a person who a Participant designates as a "primary beneficiary" and who is or may become entitled to a Participant's Plan account upon the Participant's death.

A Participant's unforeseeable emergency event includes a severe financial hardship of the participant's primary Beneficiary under the Plan, that would constitute an emergency event if it occurred with respect to the participant's spouse or dependent as defined under Code § 152.

(B) De minimis distribution. A Participant may elect to receive a distribution of his/her Account where: (1) the Participant's Account (disregarding Rollover Contributions) does not exceed \$5,000 (or such other amount as does not exceed the Code § 411(a)(1)(A) dollar amount); (2) the Participant has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (3) the

Participant has not received a prior distribution under this Section 4.05(B).

(C) Distribution of Rollover Contributions. A Participant may request and receive distribution of his/her Account attributable to Rollover Contributions (but not to Transfers) before the Participant has a distributable event under Section 4.01.

4.06 DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS (QDROs). Notwithstanding any other provision of this Plan, the QDRO provisions will apply. The Administrative Services Provider (and any Trustee) must comply with the terms of a QDRO, as defined in Code § 414(p), which is issued with respect to the Plan.

(A) Time and Method of Payment. This Plan specifically permits distribution to an alternate payee under a QDRO at any time, notwithstanding any contrary Plan provision and irrespective of whether the Participant has attained his/her earliest retirement age (as defined under Code § 414(p)) under the Plan. Nothing in this Section 4.06 gives a Participant a right to receive distribution at a time the Plan otherwise does not permit nor authorizes the alternate payee to receive a form of payment the Plan does not permit.

(B) QDRO Procedures. Upon receiving a domestic relations order, the Administrative Services Provider promptly will notify the Participant and any alternate payee named in the order, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the Administrative Services Provider must determine the qualified status of the order and must notify the Participant and each alternate payee, in writing, of the Administrative Services Provider's determination. The Administrative Services Provider must provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order.

(C) Accounting. If any portion of the Participant's Account Balance is payable under the domestic relations order during the period the Administrative Services Provider is making its determination of the qualified status of the domestic relations order, the Administrative Services Provider may maintain a separate accounting of the amounts payable. If the Administrative Services Provider determines the order is a QDRO within 18 months of the date amounts first are payable following receipt of the domestic relations order, the Administrative Services Provider will distribute or will direct the Trustee to distribute the payable amounts in accordance with the QDRO. If the Administrative Services Provider does not make its determination of the qualified status of the order within the 18-month determination period,

the Administrative Services Provider will distribute or will direct the Trustee to distribute the payable amounts in the manner the Plan would distribute if the order did not exist and will apply the order prospectively if the Administrative Services Provider later determines the order is a QDRO.

To the extent it is not inconsistent with the provisions of the QDRO, the Administrative Services Provider may segregate or may direct the Trustee to segregate the QDRO amount in a segregated investment account. The Administrative Services Provider or Trustee will make any payments or distributions required under this Section 4.06 by separate benefit checks or other separate distribution to the alternate payee(s).

(D) Permissible QDROs. A domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order ("QDRO") will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because of the time at which the order is issued, including issuance after the annuity starting date or after the participant's death.

4.07 DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTIONS - GOVERNMENTAL PLAN.

(A) Participant Election. A Participant (including for this purpose, a former Employee) may elect, at the time and in the manner the Administrative Services Provider prescribes, to have any portion of his/her eligible rollover distribution from the Plan paid directly to an eligible retirement plan specified by the Participant in a direct rollover election. For purposes of this election, a "Participant" includes as to their respective interests, a Participant's surviving spouse and the Participant's spouse or former spouse who is an alternate payee under a QDRO.

(B) Rollover and Withholding Notice. At least 30 days and not more than 180 days prior to the Trustee's distribution of an eligible rollover distribution, the Administrative Services Provider must provide a written notice (including a summary notice as permitted under applicable Treasury regulations) explaining to the distributee the rollover option, the applicability of mandatory 20% federal withholding to any amount not directly rolled over, and the recipient's right to roll over within 60 days after the date of receipt of the distribution ("rollover notice").

(C) Non-spouse Beneficiary rollover right. A non-spouse Beneficiary who is a "designated beneficiary" under Code § 401 (a)(9)(E) and the regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his/her distribution to an individual retirement account the Beneficiary establishes for purposes of receiving the distribution. In order to be able to roll

over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

(1) Certain requirements not applicable. Although a non-spouse Beneficiary may roll over directly a distribution, commencing with distributions after December 31, 2009, the distribution will be subject to the direct rollover requirements of Code § 401(a)(3) (1) (including the automatic rollover provisions of Code § 401(a)(31)(B)), the notice requirements of Code § 402(f) and the mandatory withholding requirements of Code § 3405(c). If a non-spouse Beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover.

(2) Trust Beneficiary. If the participant's named Beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code § 401 (a)(9)(E).

(3) Required minimum distributions not eligible for rollover. A non-spouse Beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the participant dies before his/her required beginning date and the non-spouse Beneficiary rolls over to an IRA the maximum amount eligible for rollover, the Beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. § 1.401 (a)(9)-3, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse Beneficiary's distribution.

(D) Definitions. The following definitions apply to this Section:

(1) Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of a Participant's Account, except an eligible rollover distribution does not include: (a) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's designated Beneficiary, or for a specified period of ten years or more; (b) any Code § 401 (a)(9) required minimum distribution; (c) any unforeseeable emergency distribution; and (d) any distribution which otherwise would be an eligible rollover distribution, but where the total distributions to the Participant during that calendar year are reasonably expected to be less than \$200.

(2) Eligible retirement plan. An eligible retirement plan is an individual retirement account

described in Code § 408(a), an individual retirement annuity described in Code § 408(b), an annuity plan described in Code § 403(a), a qualified plan described in Code § 401(a), an annuity contract (or custodial agreement) described in Code § 403(b), or an eligible deferred compensation plan described in Code § 457(b) and maintained by an Employer described in Code § 457(e)(1)(A), which accepts the Participant's, the Participant's spouse or alternate payee's eligible rollover distribution. For distributions made after December 31, 2007, a Participant or Beneficiary may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code § 408A(b).

(3) **Direct rollover.** A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(4) **Mandatory distribution.** The Administrative Services Provider is directed to make a mandatory distribution, which is an eligible rollover distribution, without the Participant's consent provided that the Participant's Account is less than \$1,000. A distribution to a Beneficiary is not a mandatory distribution.

(5) **401(a)(31)(B) Effective Date.** The § 401(a)(31)(B) Effective Date is the date of the close of the first regular legislative session of the legislative body with the authority to amend the Plan that begins on or after January 1, 2006.

4.08 ELECTION TO DEDUCT FROM DISTRIBUTION. For distributions in taxable years beginning after December 31, 2006, an Eligible Retired Public Safety Officer may elect annually for that taxable year to have the Plan deduct an amount from a distribution which the Eligible Retired Public Safety Officer otherwise would receive and include in income. The plan will pay such deducted amounts directly to the provider as described in Section 4.08(A).

(A) **Direct payment.** The Plan will pay directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract the amounts the Eligible Retired Public Safety Officer has elected to have deducted from the distribution. Such amounts may not exceed the lesser of \$3,000 or the amount the Participant paid for such taxable year for qualified healthcare premiums, and which otherwise complies with Code § 402(l).

(B) Definitions.

(1) **Eligible retired public safety officer.** An "Eligible Retired Public Safety Officer" is an individual who, by reason of disability or attainment of normal retirement age, has experienced a Severance from Employment as a Public Safety Officer with the Employer.

(2) **Public safety officer.** A "Public Safety Officer" has the same meaning as in § 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3796b(9)(A)).

(3) **Qualified health insurance premiums.** The term "qualified health insurance premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his/her spouse, and dependents, by an accident or health plan or qualified long-term care insurance contract (as defined in Code § 7702B(b)).

ARTICLE V

ADMINISTRATIVE SERVICES PROVIDER - DUTIES

5.01 TERM / VACANCY. The Administrative Services Provider will serve until his/her successor is appointed. In case the Employer has not appointed a successor Administrative Services Provider, the Employer will exercise any and all duties of the Administrative Services Provider pending the filling of the vacancy.

5.02 DUTIES. The Administrative Services Provider will have the following duties:

(a) To create administrative forms necessary for the proper and efficient administration of the Plan provided the forms are not inconsistent with the terms of the Plan;

(b) To enforce the terms of the Plan and its procedures, including this document and such other documents related to the Plan's operation;

(c) To make, at the direction of the Participant or Beneficiary or pursuant to Section 4.07(D)(4), distributions of an Account;

(d) To review in accordance with the Plan's procedures respecting a claim for (or denial of a claim for) a benefit under the Plan;

(e) To furnish the Employer with information which the Employer may require for tax or other purposes;

(f) To make distributions on account of unforeseeable emergency in accordance with the Plan's procedures;

(g) To accept Deferral Contributions, Employer Contributions, and Rollover Contributions;

(h) To accept Transfers;

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- (i) To accept Participant or, in the case of a deceased Participant, Beneficiary direction of investment;
- (j) To comply with any reporting and disclosure rules applicable to the Plan;
- (k) To make loans to Participants if elected by the Employer;
- (l) To appoint agents to act for and in performing its third party administrative services to the Plan; and
- (m) To undertake any other action the Administrative Services Provider deems reasonable or necessary to provide third party administrative services to the Plan.

5.03 LOANS TO PARTICIPANTS. The Employer may elect to permit the Administrative Services Provider and/or Trustee to make Plan loans to Participants by executing a participant loan program document with the Administrative Services Provider. Any loan by the Plan to a Participant shall be made in compliance with Code § 72(p). If Plan loans are permitted, the Administrative Services Provider, with the approval and direction of the Employer, may establish, amend or terminate from time to time, nondiscriminatory administrative procedures for administering loans. Such loan procedures must be a written document and must include: (1) the procedure for applying for a loan; (2) the criteria for approving or denying a loan; (3) the limitations, if any, on the types and amounts of loans available; and (4) the events constituting default and the steps the Plan will take to preserve Plan assets in the event of default. Any administrative procedures adopted under this Section 5.03 shall be construed as part of the Plan.

5.04 INDIVIDUAL ACCOUNTS / RECORDS. The Administrative Services Provider will maintain a separate Account in the name of each Participant to reflect the value of the Participant's Deferred Compensation under the Plan.

5.05 VALUE OF PARTICIPANT'S ACCOUNT. The value of each Participant's Account consists of his/her accumulated Deferred Compensation, as of the most recent Accounting Date or any later date as the Administrative Services Provider may determine.

5.06 ALLOCATION OF NET INCOME, GAIN OR LOSS. As of each Accounting Date (and each other valuation date determined under Section 5.04), the Administrative Services Provider will adjust Accounts to reflect net income, gain or loss, if any, since the last Accounting Date or Account valuation. The Administrative Services Provider will continue to allocate net income, gain and loss to a Participant's

Account subject to an installment distribution, until the Account is fully distributed.

5.07 ACCOUNT CHARGED. The Administrative Services Provider will charge all distributions made to a Participant or to his/her Beneficiary, or transferred under Section 9.03 from his/her Account, against the Account of the Participant when made.

5.08 PARTICIPANT DIRECTION OF INVESTMENT. Subject to the terms and conditions required by the Administrative Services Provider and the Trustee, if any, a Participant will have the right to direct the investment or re-investment of the assets comprising the Participant's Account. The Administrative Services Provider will account separately for the Participant-directed Accounts. The Participant's right to direct investment does not give the Participant any vested interest or secured or preferred position with respect to assets over which he/she has investment responsibility.

5.09 VESTING / SUBSTANTIAL RISK OF FORFEITURE. Each Participant's Account will be immediately 100% vested.

5.10 PRESERVATION OF ELIGIBLE PLAN STATUS. The Employer may take any such necessary and appropriate action to preserve the status of the Plan as an Eligible 457 Plan.

5.11 LIMITED LIABILITY. The Employer will not be liable to pay plan benefits to a Participant in excess of the value of the Participant's Account as the Administrative Services Provider determines in accordance with the Plan terms. The Employer, the Administrative Services Provider, or the Trustee will not be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan.

5.12 LOST PARTICIPANTS. If the Administrative Services Provider is unable to locate any Participant or Beneficiary whose Account becomes distributable (a "lost Participant"), the Administrative Services Provider will apply the provisions of this Section 5.12.

(A) Attempt to Locate. The Administrative Services Provider will attempt to locate a lost Participant and may use one or more of the following methods: (1) provide a distribution notice to the lost Participant at his/her last known address by certified or registered mail; (2) use the IRS letter forwarding program under Rev. Proc. 94-22; (3) use a commercial locator service, the internet or other general search method; (4) use the Social Security Administration or PBGC search program; or (5) use such other methods as the Administrative Services Provider believes prudent.

(B) Failure to Locate. If a lost Participant is not located after 6 months following the date the Administrative Services Provider first attempts to locate the lost Participant using one or more of the methods described in Section 5.12(A), the Administrative Services Provider may employ the unclaimed property processes of the state of the lost Participant's last known address. Neither the Administrative Services Provider nor the Trustee shall be responsible for restoring the Account (including potential gains) if a lost Participant whose Account was deposited with a state later makes a claim for his/her Account.

(C) Nonexclusivity and Uniformity. The provisions of this Section 5.12 are intended to provide permissible but not exclusive means for the Administrative Services Provider to administer the Accounts of lost Participants. The Administrative Services Provider may utilize any other reasonable method to locate lost Participants and to administer the Accounts of lost Participants, including such methods as the Revenue Service or other regulatory agency may in the future specify. The Administrative Services Provider will apply Section 5.12 in a reasonable manner, but may in determining a specific course of action as to a particular Account, reasonably take into account differing circumstances such as the amount of a lost Participant's Account, the expense in attempting to locate a lost Participant, the Administrative Services Provider's ability to establish and the expense of establishing a rollover IRA, and other factors. The Administrative Services Provider may charge to the Account of a lost Participant the reasonable expenses incurred under this Section 5.12 and which are associated with the lost Participant's Account.

5.13 PLAN CORRECTION. The Administrative Services Provider, as directed by the Employer, may undertake such correction of Plan errors as the Employer deems necessary, including but not limited to correction to maintain the Plan's status as an "eligible deferred compensation plan" under the Code.

ARTICLE VI PARTICIPANT ADMINISTRATIVE PROVISIONS

6.01 BENEFICIARY DESIGNATION. A Participant from time to time may designate, in writing, any person(s) (including a trust or other entity), contingently or successively, to whom the Administrative Services Provider or Trustee will pay the Participant's Account (including any life insurance proceeds payable to the Participant's Account) in the event of death. A Participant also may designate the method of payment of his/her Account. The Administrative Services Provider will prescribe the form for the Participant's written designation of Beneficiary and, upon the Participant's

filing the form with the Administrative Services Provider, the form revokes all designations filed prior to that date by the same Participant. Provided the Administrative Services Provider has been provided reasonable notice thereof, a divorce decree, or a decree of legal separation, revokes the Participant's designation, if any, of his/her spouse as his/her Beneficiary under the Plan unless: (a) the decree or a QDRO provides otherwise; or (b) the Participant has re-designated his/her former spouse as Beneficiary following the date of the divorce decree, or other decree of legal separation. The foregoing revocation provision (if applicable) applies only with respect to a Participant whose divorce or legal separation becomes effective on or following the date the Employer executes the Plan.

6.02 NO BENEFICIARY DESIGNATION. If a Participant fails to name a Beneficiary in accordance with Section 6.01, or if the Beneficiary named by a Participant predeceases the Participant, then the Administrative Services Provider will pay the Participant's remaining Account to the Participant's estate.

If the Beneficiary survives the Participant, but dies prior to distribution of the Participant's entire Account, the Trustee will pay the remaining Account to the Beneficiary's estate unless: (1) the Participant's Beneficiary designation provides otherwise; or (2) the Beneficiary has properly designated a Beneficiary. A Beneficiary only may designate a Beneficiary for the Participant's Account Balance remaining at the Beneficiary's death, and the Beneficiary's designation otherwise complies with the Plan terms. The Administrative Services Provider will direct a Trustee if applicable as to the method and to whom the Trustee will make payment under this Section 6.02.

6.03 PARTICIPATION AGREEMENT.

(A) General. A Participant must elect to make Salary Reduction Contributions on a Participation Agreement form the Administrative Services Provider provides for this purpose. The Participation Agreement must be consistent with the procedures of the Administrative Services Provider. The Participation Agreement may impose such other terms and limitations as the Employer or Administrative Services Provider may determine.

(B) Election Timing. A Participation Agreement may not take effect earlier than the first day of the calendar month following the date the Participant executes the Participation Agreement and as to Compensation paid or made available in such calendar month. However, if an Employee is eligible to become a Participant during the Employee's calendar month of hire, the Employee may execute a Participation Agreement on or before the date he/she

becomes an Employee, effective for the month in which he/she becomes an Employee.

(C) **Sick, Vacation and Back Pay.** If the Employer adopts a policy that permits Participants to make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay, a Participant who will incur a Severance from Employment may execute a Participation Agreement before such amounts are paid or made available provided: (i) such amounts are paid or made available before the Participant incurs the Severance; and (ii) the Participant is an Employee in that month.

(D) **Modification of Participation Agreement.** A Participation Agreement remains in effect until a Participant modifies it or ceases to be eligible to participate in the Plan. A Participant may modify his/her Participation Agreement by executing a new Participation Agreement. Any modification will become effective no earlier than the beginning of the calendar month commencing after the date the Participant executes the new Participation Agreement. Filing a new Participation Agreement will revoke all Participation Agreements filed prior to that date. The Employer or Administrative Services Provider may restrict the Participant's right to modify his/her Participation Agreement in any Taxable Year.

6.04 PERSONAL DATA TO ADMINISTRATIVE SERVICES PROVIDER. Each Participant and each Beneficiary of a deceased Participant must furnish to the Administrative Services Provider such evidence, data or information as the Administrative Services Provider considers necessary or desirable for the purpose of administering the Plan. The provisions of this Plan are effective for the benefit of each Participant upon the condition precedent that each Participant will furnish promptly full, true and complete evidence, data and information when requested by the Administrative Services Provider, provided the Administrative Services Provider advises each Participant of the effect of his failure to comply with its request.

6.05 ADDRESS FOR NOTIFICATION. Each Participant and each Beneficiary of a deceased Participant must file with the Administrative Services Provider from time to time, in writing, his/her address and any change of address. Any communication, statement or notice addressed to a Participant, or Beneficiary, at his/her last address filed with the Administrative Services Provider, or as shown on the records of the Employer, binds the Participant, or Beneficiary, for all purposes of this Plan.

6.06 PARTICIPANT OR BENEFICIARY INCAPACITATED. If evidence is submitted to the Administrative Services Provider which supports an opinion that a Participant or Beneficiary entitled to a Plan distribution is not able to care for his/her affairs

because of a mental condition, a physical condition, or by reason of age, the Administrative Services Provider or the Trustee may make the distribution to the Participant's or Beneficiary's guardian, conservator, trustee, custodian (including under a Uniform Transfers or Gifts to Minors Act) or to his/her attorney-in-fact or to other legal representative upon furnishing evidence of such status satisfactory to the Administrative Services Provider and to the Trustee. The Administrative Services Provider and the Trustee do not have any liability with respect to payments so made and neither the Administrative Services Provider nor the Trustee has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

ARTICLE VII MISCELLANEOUS

7.01 NO ASSIGNMENT OR ALIENATION. A Participant or Beneficiary does not have the right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments under the Plan or Trust and the Administrative Services Provider and the Trustee will not recognize any such anticipation, assignment, or alienation. The payments and the rights under this Plan are non-assignable and nontransferable. Subject to Section 8.15, a Participant's or Beneficiary's interest in the Trust is not subject to attachment, garnishment, levy, execution or other legal or equitable process.

7.02 EFFECT ON OTHER PLANS. This Plan does not affect benefits under any other retirement, pension, or benefit plan or system established for the benefit of the Employer's Employees, and participation under this Plan does not affect benefits receivable under any such plan or system, except to the extent provided in such plan or system.

7.03 WORD USAGE. Words used in the masculine will apply to the feminine where applicable, and wherever the context of the Plan dictates, the plural will be read as the singular and the singular as the plural.

7.04 STATE LAW. The laws of the state of the Employer's principal place of business will determine all questions arising with respect to the provisions of this Prototype Plan, except to the extent Federal law supersedes State law.

7.05 EMPLOYMENT NOT GUARANTEED. Nothing contained in this Plan, or any modification or amendment to the Plan, or in the creation of any Account, or the payment of any benefit, gives any Employee, Participant or Beneficiary any right to continue employment, any legal or equitable right against the Employer, the

Administrative Services Provider, the Trustee, any other Employee of the Employer, or any agents thereof except as expressly provided by the Plan.

7.06 NOTICE, DESIGNATION, ELECTION, CONSENT AND WAIVER. All notices under the Plan and all Participant or Beneficiary designations, elections, consents or waivers must be in writing and made in a form acceptable to the Administrative Services Provider. To the extent permitted by Treasury regulations or other applicable guidance, any Plan notice, election, consent or waiver may be transmitted electronically. Any person entitled to notice under the Plan may waive the notice or shorten the notice period except as otherwise required by the Code.

7.07 LIMITATIONS ON TRANSFERS AND EXCHANGES. The Employer and the Administrative Services Provider may adopt procedures to govern Participant elections and directions concerning a Participant's, Beneficiary's, or Alternate Payee's investment specifications and may impose limitations on transfers and exchanges from one investment option with the Plan to another. These procedures shall be in addition to any established by investment providers to the Plan. The Employer and the Administrative Services Provider may decline to implement any investment instructions for a Participant, Beneficiary, or Alternate Payee where either deems appropriate.

7.08 EMPLOYER RESPONSIBILITY FOR DISTRIBUTION OF PLAN RELATED INFORMATION. The Employer will distribute all Plan related amendments, restated plan documents, and deferred compensation plan tax related documentation to the Administrative Service Providers when there are multiple Administrative Service Providers of the Plan.

7.09 USE OF PLAN ASSETS THAT ARE NOT ATTRIBUTABLE TO AN ACCOUNT. If the Plan receives money that is not attributable to an Account, then the Employer will direct the Administrative Services Provider as to the use of these amounts. Examples include, but are not limited to, money received by the Plan as part of a settlement, litigation award or fee reimbursement. The Employer may use these amounts to offset Plan expenses or may allocate these amounts to Participants or as it deems appropriate.

ARTICLE VIII TRUST PROVISIONS

8.01 APPLICATION. The provisions of this Article VIII apply only if the Employer has not elected to substitute another trust, custodial accounts or annuity contracts in lieu of the Trust established under this Article VIII.

8.02 ACCEPTANCE / HOLDING. The Trustee accepts the Trust created under the Plan and agrees to perform the duties and obligations imposed. The Trustee must hold in trust under this Article VIII, all Deferred Compensation until paid in accordance with the Plan terms.

8.03 RECEIPT OF CONTRIBUTIONS. The Trustee is accountable to the Employer for the funds contributed to it by the Employer or the Administrative Services Provider, but the Trustee does not have any duty to see that the contributions received comply with the provisions of the Plan.

8.04 FULL INVESTMENT POWERS. The Trustee is authorized and empowered, but not by way of limitation, to exercise and perform the following duties:

(a) To invest any part or all of the Trust in any common or preferred stocks, open-end or closed-end mutual funds, put and call options traded on a national exchange, United States retirement plan bonds, corporate bonds, debentures, convertible debentures, commercial paper, U. S. Treasury bills, U. S. Treasury notes and other direct or indirect obligations of the United States Government or its agencies, improved or unimproved real estate situated in the United States, limited partnerships, insurance contracts of any type, mortgages, notes or other property of any kind, real or personal, and to buy or sell options on common stock on a nationally recognized options exchange with or without holding the underlying common stock, as a prudent person would do under like circumstances. Any investment made or retained by the Trustee in good faith will be proper but must be of a kind constituting a diversification considered by law suitable for trust investments;

(b) To retain in cash so much of the Trust as it may deem advisable to satisfy liquidity needs of the Plan and to deposit any cash held in the Trust in a bank account at reasonable interest;

(c) To invest, if the Trustee is a bank or similar financial institution supervised by the United States or by a State, in any type of deposit of the Trustee (or a bank related to the Trustee within the meaning of Code §414(b)) at a reasonable rate of interest or in a common trust fund as described in Code § 584, or in a collective investment fund, the provisions of which the Trust incorporates by this reference, which the Trustee (or its affiliate, as defined in Code § 1504) maintains exclusively for the collective investment of money contributed by the bank (or its affiliate) in its capacity as Trustee and which conforms to the rules of the Comptroller of the Currency;

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(d) To manage, sell, contract to sell, grant options to purchase, convey, exchange, transfer, abandon, improve, repair, insure, lease for any term even though commencing in the future or extending beyond the term of the Trust, and otherwise deal with all property, real or personal, in such manner, for such considerations and on such terms and conditions as the Trustee decides;

(e) To credit and distribute the Trust as directed by the Administrative Services Provider of the Plan. The Trustee will not be obliged to inquire as to whether any payee or distributee is entitled to any payment or whether the distribution is proper or within the terms of the Plan, or as to the manner of making any payment or distribution. The Trustee will be accountable only to the Administrative Services Provider for any payment or distribution made by it in good faith on the order or direction of the Administrative Services Provider;

(f) To borrow money, to assume indebtedness, extend mortgages and encumber by mortgage or pledge;

(g) To compromise, contest, arbitrate or abandon claims and demands;

(h) To have with respect to the Trust all of the rights of an individual owner, including the power to exercise any and all voting rights associated with Trust assets, to give proxies, to participate in any voting trusts, mergers, consolidations or liquidations, to tender shares and to exercise or sell stock subscriptions or conversion rights;

(i) To lease for oil, gas and other mineral purposes and to create mineral severances by grant or reservation; to pool or unitize interest in oil, gas and other minerals; and to enter into operating agreements and to execute division and transfer orders;

(j) To hold any securities or other property in the name of the Trustee or its nominee, with depositories or agent depositories or in another form as it may deem best, with or without disclosing the trust relationship;

(k) To perform any and all other acts in its judgment necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust;

(l) To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery of the funds or property until a court of competent jurisdiction makes a final adjudication;

(m) To file all tax returns required of the Trustee;

(n) To furnish to the Employer and the Administrative Services Provider an annual statement of account showing the condition of the Trust and all investments, receipts, disbursements and other transactions effected by the Trustee during the Plan Year covered by the statement and also stating the assets of the Trust held at the end of the Plan Year, which accounts will be conclusive on all persons, including the Employer and the Administrative Services Provider, except as to any act or transaction concerning which the Employer or the Administrative Services Provider files with the Trustee written exceptions or objections within 90 days after the receipt of the accounts; and

(o) To begin, maintain or defend any litigation necessary in connection with the administration of the Trust, except that the Trustee will not be obliged or required to do so.

8.05 RECORDS AND STATEMENTS. The records of the Trustee pertaining to the Trust will be open to the inspection of the Employer at all reasonable times and may be audited from time to time by any person or persons as the Employer may specify in writing. The Trustee will furnish the Administrative Services Provider whatever information relating to the Trust the Administrative Services Provider considers necessary.

8.06 FEES AND EXPENSES FROM FUND. The Trustee will receive reasonable annual compensation in accordance with its fee schedule as published from time to time. The Trustee will pay from the Trust all fees and expenses the Trustee reasonably incurs in its administration of the Trust, unless the Employer pays the fees and expenses.

8.07 PROFESSIONAL AGENTS. The Trustee may employ and pay from the Trust reasonable compensation to agents, attorneys, accountants and other persons to advise the Trustee as in its opinion may be necessary. The Trustee may delegate to any agent, attorney, accountant or other person selected by it any non-Trustee power or duty vested in it by the Trust, and the Trustee may act or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.

8.08 DISTRIBUTION OF CASH OR PROPERTY. The Trustee may make distribution under the Plan in cash or property, or partly in each, at its fair market value as determined by the Trustee.

8.09 RESIGNATION AND REMOVAL. The Trustee or the Custodian may resign its position by giving written notice to the Employer and to the Administrative Services Provider. The Trustee's notice must specify the effective date of the Trustee's resignation, which date must be at least 30 days

following the date of the Trustee's notice, unless the Employer consents in writing to shorter notice.

The Employer may remove a Trustee or a Custodian by giving written notice to the affected party. The Employer's notice must specify the effective date of removal which date must be at least 30 days following the date of the Employer's notice, except where the Employer reasonably determines a shorter notice period or immediate removal is necessary to protect Plan assets.

8.10 SUCCESSOR TRUSTEE.

(A) Appointment. In the event of the resignation or the removal of a Trustee, where no other Trustee continues to service, the Employer must appoint a successor Trustee if it intends to continue the Plan. If two or more persons hold the position of Trustee, in the event of the removal of one such person, during any period the selection of a replacement is pending, or during any period such person is unable to serve for any reason, the remaining person or persons will act as the Trustee. If the Employer fails to appoint a successor Trustee as of the effective date of the Trustee resignation or removal and no other Trustee remains, the Trustee will treat the Employer as having appointed itself as Trustee and as having filed the Employer's acceptance of appointment as successor Trustee with the former Trustee.

(B) Automatic Successor. Any corporation which succeeds to the trust business of the Trustee, or results from any merger or consolidation to which the Trustee is a party, or is the transferee of substantially all the Trustee's assets, will be the successor to the Trustee under this Trust. The successor Trustee will possess all rights, duties and powers under this Trust as if the successor Trustee were the original Trustee. Neither the Trustee nor the successor Trustee need provide notice to any interested person of any transaction resulting in a successor Trustee. The successor Trustee need not file or execute any additional instrument or perform any additional act to become successor Trustee.

8.11 VALUATION OF TRUST. The Trustee will value the Trust as of each Accounting Date to determine the fair market value of the Trust assets. The Trustee will value the Trust on such other date(s) the Administrative Services Provider may direct.

8.12 PARTICIPANT DIRECTION OF INVESTMENT. Consistent with the Administrative Services Provider's policy adopted under Section 5.02(i), the Trustee may consent in writing to permit Participants in the Plan to direct the investment to the Trust assets. The Administrative Services Provider will advise the Trustee of the portion of the Trust credited to each Participant's Account under the Plan, and subject to such Participant direction. As a condition of Participant direction, the Trustee may impose such conditions, limitations and other

provisions as the Trustee may deem appropriate and as are consistent with the Administrative Services Provider's policy. The Trustee will report to the Administrative Services Provider the net income, gain or losses incurred by each Participant directed Account separately from the net income, gain or losses incurred by the general Trust during the Trust Year.

8.13 THIRD PARTY RELIANCE. No person dealing with the Trustee will be obliged to see to the proper application of any money paid or property delivered to the Trustee, or to inquire whether the Trustee has acted pursuant to any of the terms of the Trust. Each person dealing with the Trustee may act upon any notice, request or representation in writing by the Trustee, or by the Trustee's duly authorized agent, and will not be liable to any person whomsoever in so doing. The certificate of the Trustee that it is acting in accordance with the Trust will be conclusive in favor of any person relying on the certificate.

8.14 INVALIDITY OF ANY TRUST PROVISION. If any clause or provision of this Article VIII proves to be or is adjudged to be invalid or void for any reason, such void or invalid clause or provision will not affect any of the other provisions of this Article VIII and the balance of the Trust provisions will remain operative.

8.15 EXCLUSIVE BENEFIT. The Trustee will hold all the assets of the Trust for the exclusive benefit of the Participants and their Beneficiaries and neither the Employer nor the Trustee will use or divert any part of the corpus or income of the Trust for purposes other than the exclusive benefit of the Participants and Beneficiaries of the Plan. The Employer will not have any right to the assets held by the Trustee and the Trust assets will not be subject to the claims of the Employer's creditors or, except as provided in Section 4.06, of the creditors of any Participant or Beneficiary. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his/her Account or any interest in his/her Deferred Compensation. Notwithstanding the foregoing, the Administrative Services Provider may pay from a Participant's or Beneficiary's Account the amount the Administrative Services Provider finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary. The Trust created under the Employer's Plan is irrevocable and its assets will not inure to the benefit of the Employer.

8.16 SUBSTITUTION OF CUSTODIAL ACCOUNT OR ANNUITY CONTRACT. The

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Employer may elect to use one or more custodial accounts or annuity contracts in lieu of or in addition to the Trust established in this Article VIII. Any such custodial account or annuity contract must satisfy the requirements of Code §457(g)(3) and applicable Treasury regulations.

8.17 GROUP TRUST AUTHORITY. Notwithstanding any contrary provision in this Plan, the Trustee may, unless restricted in writing by the Administrative Services Provider, transfer assets of the plan to a group trust that is operated or maintained exclusively for the commingling and collective investment of monies provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Code section 401(a), individual retirement accounts that are exempt under Code section 408(e), and eligible governmental plans that meet the requirements of Code section 457(b). For this purpose, a trust includes a custodial account that is treated as a trust under Code section 401(f) or under Code section 457(g)(3). For purposes of valuation, the value of the interest maintained by the Plan in such group trust shall be the fair market value of the portion of the group trust held for Plan, determined in accordance with generally recognized valuation procedures.

ARTICLE IX AMENDMENT, TERMINATION, TRANSFERS

9.01 AMENDMENT BY EMPLOYER / SPONSOR. The Employer has the right at any time and from time to time:

(a) To amend this Plan and Trust Agreement in any manner it deems necessary or advisable in order to continue the status of this Plan as an Eligible 457 Plan; and

(b) To amend this Plan and Trust Agreement in any other manner, including deletion, substitution or modification of any Plan or Trust.

The Employer must make all amendments in writing. The Employer may amend the Plan by addenda, by separate amendment, or by restatement of the Plan. Each amendment must state the date to which it is either retroactively or prospectively effective. The Employer also may not make any amendment that affects the rights, duties or responsibilities of the Trustee or the Administrative Services Provider without the written consent of the affected Trustee or the Administrative Services Provider.

The Employer will accept amendments from the Administrative Services Provider (including adoption of a substitute Plan and Trust) without being required to re-execute the Plan, provided that the amendments are necessary to continue the Plan as an

Eligible 457 Plan.

9.02 TERMINATION / FREEZING OF PLAN. The Employer has the right, at any time, to terminate this Plan or to cease (freeze) further Deferral Contributions to the Plan. Upon termination or freezing of the Plan, the provisions of the Plan (other than provisions permitting continued Deferral Contributions) remain operative until distribution of all Accounts. Upon Plan termination, the Administrative Services Provider or Trustee shall distribute to Participants and Beneficiaries all Deferred Compensation as soon as is reasonably practicable following termination.

9.03 TRANSFERS. The Plan: (a) may accept a Transfer of a Participant's Account in another employer's Eligible 457 Plan; or (b) may Transfer a Participant's (or Beneficiary's) Account in this Plan to the another employer's Eligible 457 Plan. The other plan involved in the Transfer must provide for Transfers. The Participant or Beneficiary, after the Transfer will have Deferred Compensation in the recipient plan at least equal to his/her Deferred Compensation in the transferring plan immediately before the Transfer. Any Transfer also must comply with applicable Treasury regulations, and in particular Treas. Reg. §§1.457-10(b)(2) as to post-severance transfers between Eligible 457 Plans; 1.457-1 0(b)(3) as to transfers of all assets between Eligible 457 Plans; and 1.457-1 0(b)(4) as to transfers between Eligible 457 Plans of the same Employer. The Administrative Services Provider will credit any Transfer accepted under this Section 9.03 to the Participant's Account and will treat the transferred amount as a Deferral Contribution for all purposes of this Plan except such Transfer will not be treated as a Deferral Contribution subject to the limitations of Article III. The Plan's Transfer of any Participant's or Beneficiary's Account under this Section 9.03 completely discharges the Employer, the Administrative Services Provider, the Trustee and the Plan from any liability to the Participant or Beneficiary for any Plan benefits.

9.04 PURCHASE OF PERMISSIVE SERVICE CREDIT. A Participant, prior to otherwise incurring a distributable event under Article IV, may direct the Trustee to transfer (as of January 1, 2002, or later) all or a portion of his/her Account to a governmental defined benefit plan (under Code §414(d)) for: (a) the purchase of permissive service credit (under Code §41 5(n)(3)(A)) under such plan, or (b) the repayment of contributions and earnings previously refunded with respect to a forfeiture of service credited under the plan (or under another governmental plan within the same State) to which Code §415 does not apply by reason of Code §415(k)(3).

Appendix B

**ORDINANCE TO AMEND CHAPTER 25 OF THE CITY OF MEMPHIS CODE OF
ORDINANCES GOVERNING THE CITY PENSION SYSTEM
TO PROVIDE A 2016 CASH BALANCE PLAN
AND A 2016 DEFINED CONTRIBUTION PLAN**

WHEREAS, the City of Memphis, Tennessee (the "Employer") has adopted a defined benefit retirement plan known as City of Memphis Retirement System for General Employees, including police officers and firefighters, as subsequently amended and restated from time to time, and consisting of a 1948 plan (that part of the plan benefiting employees participating under the provisions of sections 25-60 through 25-99) and a 1978 plan (that part of the plan benefiting employees participating under the provisions of sections 25-160 through 25-199), as amended in 2012, currently codified and established under City Ordinance Chapter 25, Articles I through VII, Division 1 and Division 2 (collectively, "the Pension System"); and

WHEREAS, in order to protect and enhance the Pension System's actuarial soundness and ensure the long-term financial viability of the Pension System it is necessary that the Pension System be further amended as set forth herein; and

NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that the Pension System shall be amended as follows:

I. The following Sections 25-1(1)(17), 25-1(42), 25-1(43), 25-1(44), 25-160(a) and 25-160(c) shall be amended and restated as follows:

1. Sec. 25-1(17) *Employee* shall be restated and amended in its entirety to read as follows:

(17) *Employee*: Any person hired on or before June 30, 2016, but who as of June 30, 2016 has seven and one-half (7.5) or more years of service with the City and who was on June 30, 2016 a participant in the City of Memphis Retirement System for General Employees, including police officers and firefighters, under City Ordinance Chapter 25, Articles I through VII in the regular, full-time employ of the City to the extent that the City contributes to the salary of such employee in a job classification or title that the City administration shall designate as eligible for participation in the Plan, including any person who is elected to his/her office by the people, but not including the light, gas and water division of the City, temporary employees as classified by the City, part-time employees, or any employee mandated by law to contribute to the federal Social Security system and not eligible to be a participant by his/her job classification.

2. Section 25-1(42) *Trust fund* shall be renumbered as Section 25-1(43).
3. Section 25-1(43) *Year of service* shall be renumbered as Section 25-1(44).
4. There shall be added as Section 25-1(42) the following Section 25-1(42) *Transferred Participant*:

(42) *Transferred Participant*: Each participant who is actively employed as of June 30, 2016 but who as of June 30, 2016 has less than seven and one-half (7.5) years of service with the City and who was on June 30, 2016 a participant in City of Memphis Retirement System for General Employees, including police officers and firefighters, under City Ordinance Chapter 25, Articles I through VII, Division 1 or Division 2.
5. Sec. 25-160(a) *Participation* shall be restated and amended in its entirety to read as follows:

(a) *General rule*. Subject to section 25-160(b) and (c), and section 25-163(b), each person who shall become an employee on or after July 1, 1978 and prior to July 1, 2016, shall be or become a participant in this 1978 plan as of his/her employment creditable service date without any further action on his/her part and shall remain a participant until s/he terminates employment with the City, provided, however, if such person on June 30, 2016 has less than seven and one-half (7.5) years of service with the City such person shall be a Transferred Participant.
6. Section 25-160(c) *Elected employee rule* shall be restated and amended in its entirety to read as follows:

Elected employee rule. Any Eligible Employee who is elected to his/her position prior to July 1, 2016, including the Mayor or any member of the City Council, may elect to participate in this Plan as of the date he/she begins his/her elected duties, provided:

 1. Such elected employee makes a written election to the Board within ninety (90) days of such date; and
 2. If such elected Eligible Employee elects to begin participation after the date he/she begins his elected duties, he/she

- a. Enters this Plan before the expiration of his/her then current term of office; and
- b. Upon such entry, pays into the Trust Fund the Employee Contributions payable for the period since such date he/she began his/her elected duties, with compounded interest at the rate established by the Board.

II. There shall be added as Part 6 *Benefit for Transferred Participants* the following:

Part 6. Benefit for Transferred Participants

Sec. 25-201. Cessation of Accruals for Transferred Participants.

Notwithstanding any other contrary provision of this Pension System, in calculating the accrued benefit (including the right to any optional benefit provided under the Pension System) of any Transferred Participant, such Transferred Participant shall accrue no additional benefit under the Pension System, Division 1 or Division 2 on or after June 30, 2016.

Sec. 25-202 through 25-209. Reserved.

III. There shall be added to the Pension System the following Division 3. 2016 Cash Balance Plan/Defined Contribution Plan, providing for the following:

DIVISION 3. 2016 CASH BALANCE PLAN/DEFINED CONTRIBUTION PLAN

Part 1. Definitions

Sec. 25-210. Definitions.

(1) *Accrued benefit*: A monthly benefit accrued as of the annuity commencement date for a participant, payable semimonthly, equal to the actuarial equivalence of the sum of (i) the participant's cash balance account, (ii) the participant's defined contribution plan account, and (iii) any Rollover Account of the participant under Sec. 25-260 hereof.

(2) *Actuarial equivalence*: Equality in value of the aggregate amounts expected to be received under different forms of annuity payment based upon interest at five (5%) per annum compounded annually and the applicable mortality table as prescribed by the Secretary of Treasury pursuant to Section 417(e)(3)(B) of the Internal Revenue Code of the Plan Year including the annuity commencement date of the participant.

(3) *Cash Balance Account*: A hypothetical participant account which shall be credited with the participant's employee cash balance plan contributions under Sec. 25-220, the city cash balance plan allocations under Sec. 25-221, and the interest credits under Sec. 25-223.

(4) *Defined Contribution Plan Account*: A participant account as set forth in Sec. 25-234.

(5) *Normal Form of Benefit*: The normal form of benefit for a non-married participant is a level single life annuity. The normal form of benefit of a married participant is a level 75% joint and survivor benefit.

(6) *2016 Plan*: The Cash Balance Plan and Defined Contribution Plan established hereunder.

Part 2. Participation

Sec. 25-211. Participation in 2016 Cash Balance Plan/Defined Contribution Plan.

a. General rule. Each person (1) who is hired on or after July 1, 2016, or (2) who is a Transferred Participant as defined in Sec. 25-1(42), in each case who is in the regular, full-time employment of the City to the extent that the City contributes to the salary of such employee in a job classification or title that the City administration shall designate as eligible for participation in the Plan, including any person who is elected to his/her office by the people, but not including the light, gas and water division of the City, temporary employees as classified by the City, part-time employees, or any employee mandated by law to contribute to the federal Social Security system and not eligible to be a Participant by his/her job classification, shall become a participant in this 2016 Plan as of his or her employment creditable service date without any further action on his or her part.

b. Grandfather rule for 1948 and 1978 plans. Any employee whose reemployment commencement date occurs on or after July 1, 2016, and who terminated employment as a member in the city retirement system under the 1948 plan or 1978 plan and properly elected a deferred pension under Sec. 25-83 or Sec. 25-183 or who retired as a participant in such 1948 plan under section 25-78, 25-81 or 25-82, or who retired as a participant in such 1978 plan under section 25-178, 25-181 or 25-182, shall be a member in such 1948 plan or 1978 plan upon his/her reemployment commencement date and shall not participate in this 2016 Plan.

c. Elected employee rule. Any employee who is elected to his or her position from and after July 1, 2016, including the mayor or any member of the council, may elect to participate in this 2016 Plan as of the date s/he begins his/her elected duties, provided:

(1) S/he makes such written election to the board within ninety (90) days of such date; and

(2) If in her/his timely election s/he elects to begin participation in the 2016 Plan after the date s/he begins her/his elected duties;

(3) S/he enters the 2016 Plan before the expiration (other than because of ordinary disability) of her/his then current term of office; and

(4) Upon such entry, s/he pays into the trust fund the employee contributions payable for the period since such date s/he began her/his elected duties, with compounded interest at the rate established by the Board.

d. Part-time employee rule. Part-time assistant city attorneys and other part-time employees who may hereafter be specifically included by amendment to this 2016 Plan shall be participants in this 2016 Plan unless within ninety (90) days of employment they request in writing to be excluded and the request is approved by the mayor.

Sec. 25-212. Reemployed participants.

Except as provided in section 25-211(b), any former participant under this 2016 Plan or the 1978 plan, as amended in 2012, or the 1948 plan of this chapter who is reemployed as an employee shall enter this 2016 Plan as a participant upon his/her reemployment commencement date. His/her years of service shall be determined as provided under section 25-1(44).

Sec. 25-213. Transferring participants to the plan.

RESERVED

Sec. 25-214. Transferring participants from the plan.

RESERVED

Sec. 25-215. Participant information.

The head of each city department shall give immediate notice in writing to the Board of any new employee, and of the change in status of any employee in his/her department resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal

or death. The head of each department shall furnish such other information, concerning any participant, as the Board may require.

Sec. 25-216 to 25-219 Reserved.

Part 3. Cash Balance Plan Contributions

Sec. 25-220. Participant employee cash balance plan contributions.

- (a) Effective July 1, 2016, each 2016 Plan participant who is not a police officer or a firefighter shall make a mandatory cash balance plan contribution to the trust fund in an amount equal to two percent (2%) of his/her compensation. Such contribution shall be paid by the participant while an employee until his/her retirement or termination as an employee. Such contribution shall be in addition to any defined contribution plan contribution of the employee.
- (b) Effective July 1, 2016, each 2016 Plan participant who is a police officer or a firefighter shall make a mandatory cash balance plan contribution to the trust fund in an amount equal to two percent (2%) of his/her compensation. Such contribution shall be paid by the participant while an employee until his/her retirement or termination as an employee. Such contribution shall be in addition to any defined contribution plan contribution of the employee.
- (c) The contributions made by each participant to the trust fund shall be designated as city contributions pursuant to Code Section 414(h). Such designation is contingent upon the contributions being excluded from the participant's gross income for federal income tax purposes.
- (d) Subject to the provisions of this 2016 Plan, the board shall adopt rules and regulations governing the making of employee contributions by payroll deduction. The head of each city department shall apply the rate of contribution to the compensation of each participant, and shall certify to the comptroller on each payroll the amount to be contributed, and shall promptly furnish to the board a copy of each payroll; and such amounts shall be deducted by the comptroller and shall be paid into the trust fund and credited by the board as employee cash balance plan contributions of the participants for whom the contributions were made. Every participant shall be deemed to have consented and agreed to the employee cash balance contributions provided and made hereunder. Payment of salary, less such cash balance plan contributions and any defined contribution plan contributions provided herein, shall be a full and complete discharge of all

claims and demands whatsoever for the service rendered by such person to the city during the period covered by such payment, except his or her claim to the benefits to which he or she may be entitled under the provisions of this 2016 Plan.

- (e) At the end of each pay period, the comptroller shall determine the aggregate amount of the participant employee cash balance plan contributions of the participants who are employees of the general city government for such period, including police officers and firefighters, and shall be supplied with the aggregate amount of the participant employee cash balance plan contributions of the participants of the various other city agencies, in the proper amount, and shall then contribute to the trust fund an amount equal to the aggregate employee cash balance contributions for all participants for such pay period; provided, however, the first determination and transfer of funds as provided for above after the original effective date of this 2016 Plan shall be made at the end of the July 15, 2016 pay period.

Sec. 25-221. City cash balance plan allocations.

(a) As of the end of each plan year, the comptroller shall determine the aggregate amount of the compensation of each 2016 Plan participant who is not a police officer or a firefighter on which the employee cash balance plan contributions for such period are calculated. The city shall allocate to the cash balance accounts of such participants the following:

- i. For those participants with less than five (5) years of service at the date of such contribution three percent (3%) of such compensation.
- ii. For those participants with five (5) or more years of service but less than ten (10) years of service at the date of such contribution five percent (5%) of such compensation.
- iii. For those participants with ten (10) or more years of service but less than fifteen (15) years of service at the date of such contribution seven percent (7%) of such compensation.
- iv. For those participants with fifteen (15) or more years of service but less than twenty (20) years of service at the date of such contribution ten percent (10%) of such compensation.
- v. For those participants with twenty (20) or more years of service at the date of such contribution thirteen percent (13%) of such compensation.

(b) As of the end of each plan year, the comptroller shall determine the aggregate amount of the compensation of each 2016 Plan participant who is a police officer or a

firefighter on which the employee cash balance plan contributions for such period are calculated. The city shall allocate to the participant cash balance accounts of such participants the following:

- i. For those participants with less than five (5) years of service at the date of such contribution six percent (6%) of such compensation.
- ii. For those participants with five (5) or more years of service but less than ten (10) years of service at the date of such contribution eight percent (8%) of such compensation.
- iii. For those participants with ten (10) or more years of service but less than fifteen (15) years of service at the date of such contribution ten percent (10%) of such compensation.
- iv. For those participants with fifteen (15) or more years of service but less than twenty (20) years of service at the date of such contribution thirteen percent (13%) of such compensation.
- v. For those participants with twenty (20) or more years of service at the date of such contribution sixteen percent (16%) of such compensation.

Sec. 25-222. Reserved.

Sec. 25-223. Interest credits on participant cash balance accounts.

For each 2016 Plan participant the "interest crediting rate" applied to the participant's cash balance account shall be based on the Plan's return on assets for the applicable plan year less one percent (1%). For periods of less than twelve (12) months the interest crediting rate applied to the participant's cash balance account shall be based on the year to date (YTD) return on assets for the applicable plan year through the second month preceding the month in which the annuity commencement date occurs less one percent (1%). Such interest credit shall be allocated in the following manner:

- (i) Effective as of the last of each plan year, the dollar amount credited to each participant's cash balance account is calculated as the sum (a) and (b) below:
 - a. The interest crediting rate multiplied by the cash balance account on the last day of the prior plan year.
 - b. The interest crediting rate multiplied by the sum of participant cash balance plan contributions and city cash balance plan allocations for the current plan year times one-half (1/2).

For any Plan participant who ends employment in accordance with section 25-240, section 25-241, section 25-242, section 25-250, or section 25-251, the cash balance account at the annuity commencement date shall not be less than the accumulated participant cash balance contributions and city cash balance plan allocations. For any plan participant who ends employment in accordance with section 25-243, the cash balance account shall at no point be less than the accumulated participant cash balance contributions. This provision may be referred to as the "preservation of principal".

Sec. 25-224. Forfeitures.

All forfeitures arising under this 2016 Plan will be applied to reduce the contributions of the city to the plan and shall not be used to increase the 2016 Plan benefits of any participant at any time prior to the termination of the 2016 Plan.

Sec. 25-225. Prohibition against interest.

The city shall not have any right, claim or interest in the trust fund or in any contributions made to the trust fund, and this 2016 Plan may not be amended to use the trust fund for any purpose other than the exclusive benefit of the participants and, where applicable, their spouses or children; provided the comptroller shall return any portion of a contribution which was made under a mistake of fact, provided such return is made within one year after such contribution is made.

Sec. 25-226 through 25-229. Reserved.

Part 4. Defined Contribution Contributions.

Sec. 25-230. Participant defined contribution plan contributions.

- (a) Effective July 1, 2016, each 2016 Plan participant who is not a police officer or a firefighter shall make a mandatory defined contribution plan contribution to the trust fund in an amount equal to six percent (6%) of his/her compensation. Such contribution shall be paid by the participant while an employee until his/her retirement or termination as an employee. Such contribution shall be in addition to any cash balance plan contribution of the employee.
- (b) Effective July 1, 2016, each 2016 Plan participant who is a police officer or a firefighter shall make a mandatory defined contribution plan contribution to the trust fund in an amount equal to six percent (6%) of his/her compensation. Such contribution shall be paid by the participant while an employee until his/her retirement or termination as an employee. Such contribution shall be in addition to any cash balance plan contribution of the employee.

- (c) The defined contribution plan contributions made by each participant to the trust fund shall be designated as city contributions pursuant to Code Section 414(h). Such designation is contingent upon the contributions being excluded from the participant's gross income for federal income tax purposes.
- (d) Subject to the provisions of this 2016 Plan, the Board shall adopt rules and regulations governing the making of employee contributions by payroll deduction. The head of each city department shall apply the rate of contribution to the compensation of each participant, and shall certify to the comptroller on each payroll the amount to be contributed, and shall promptly furnish to the Board a copy of each payroll; and such amounts shall be deducted by the comptroller and shall be paid into the trust fund and credited by the board as employee defined contribution plan contributions of the participants for whom the contributions were made. Every participant shall be deemed to have consented and agreed to the employee defined contribution plan contributions provided and made hereunder. Payment of salary, less such defined contribution plan contributions and any cash balance plan contributions provided herein, shall be a full and complete discharge of all claims and demands whatsoever for the service rendered by such person to the city during the period covered by such payment, except his or her claim to the benefits to which he or she may be entitled under the provisions of this 2016 Plan.
- (e) At the end of each pay period, the comptroller shall determine the aggregate amount of the participant employee defined contribution plan contributions of the participants who are employees of the general city government for such period, including police officers and firefighters, and shall be supplied with the aggregate amount of the participant employee defined contribution plan contributions of the participants of the various other city agencies, in the proper amount, and shall then allocate to the trust fund an amount equal to the aggregate employee defined contribution plan contributions for all participants for such pay period; provided, however, the first determination and transfer of funds as provided for above after the original effective date of this 2016 Plan shall be made at the end of the July 15, 2016 pay period.

Sec. 25-231. City defined contribution plan contribution.

- (a) No later than the end of each month, the comptroller shall determine the aggregate amount of the compensation of each 2016 Plan participant employed as of the end of such plan year who is not a police officer or a firefighter on which the employee defined contribution plan contributions for such month are calculated. The city shall pay into the trust fund as its defined contribution plan contribution one and one-half

percent (1.5%) of such compensation.

- (b) No later than the end of each month, the comptroller shall determine the aggregate amount of the compensation of each 2016 Plan participant who is a police officer or a firefighter on which the employee defined contribution plan contributions for such month are calculated. The city shall pay into the trust fund as its defined contribution plan contribution one and one-half percent (1.5%) of such compensation.
- (c) The payments of the city into the trust fund under this section are made obligations of the city. The council shall appropriate annually such amounts as are necessary to make such payments.

Sec. 25-232. Forfeitures.

All forfeitures arising under this 2016 Plan will be applied to reduce the contributions of the city to the plan and shall not be used to increase the 2016 Plan benefits of any participant at any time prior to the termination of the 2016 Plan.

Sec. 25-233. Prohibition against interest.

The city shall not have any right, claim or interest in the trust fund or in any contributions made to the trust fund, and this 2016 Plan may not be amended to use the trust fund for any purpose other than the exclusive benefit of the participants and, where applicable, their spouses or children; provided the comptroller shall return any portion of a contribution which was made under a mistake of fact, provided such return is made within one year after such contribution is made.

Sec. 25-234 Allocation of defined contribution plan contributions.

(1) *Separate accounting:* The Board shall establish and maintain an account in the name of each participant to which the Board shall credit all defined contribution amounts allocated to each such participant as set forth herein.

(2) *Allocation of contributions:* The city shall provide the Board with all information required by the Board to make a proper allocation of the city's defined contribution plan contribution for each plan year. Within a reasonable period of time after the date of receipt by the Board of such information, the Board shall allocate any city defined contribution plan contributions proportionately among the Participants of the Plan as provided herein.

(3) *Participant accounts and participant directed investments:*

- i. *Participant accounts:* The Board shall create and maintain adequate records to disclose the interest of each participant, former participant, and beneficiary in such participant's separate defined contribution plan account. Such records

shall be in the form of individual accounts to which shall be credited the participant's employee defined contribution plan contributions, the city defined contribution plan contributions allocable to the Participant as provided herein, and the aggregate of all earnings and losses on such account.

- ii. *Participant directed investments:* Each Participant may designate, in accordance with the procedures established from time to time by the Board, the manner in which the amounts allocated to each of his or her account shall be invested from among the investment funds made available from time to time by the Board. That portion of the interest of any participant so directing will thereupon be considered a participant's directed account. If a participant fails to make a designation, then his or her account shall be invested in the investment fund or funds designated by the Board from time to time in a uniform manner. A Participant may change his or her investment designation for future contributions to be allocated to his or her account. Any such change shall be made in accordance with procedures established by the Board and the frequency of such change may be limited by such procedures. A participant may elect to convert his or her investment designation with respect to the amounts already allocated to his or her account. Any such conversion shall be made in accordance with the procedures established by the Board, and the frequency of such conversions may be limited by such procedures.

All participant directed accounts shall be charged or credited with the net earnings, gains, losses and expenses as well as any appreciation or depreciation in the market value using publicly listed fair market values in accordance with procedures established from time to time by the Board and the Board deems necessary or appropriate to ensure proper administration of the defined contribution plan, and may interpret the same accordingly.

Sec. 235 through 25-239. Reserved.

Part 5. Retirement Benefits

Sec. 25-240. Normal retirement.

- (a) A 2016 Plan participant who elects to retire on or after his/her normal retirement date, by a written election designating the date s/he will retire and delivered to the Board not less than thirty (30) days before such designated date, shall be entitled to receive a monthly retirement benefit equal to his/her accrued benefit.
- (b) The Board may compel the retirement of a participant on or after his normal retirement date, upon the recommendation of a qualified physician and the director of the city division in which the participant is employed that such retirement is in the

best interest and efficiency of the division and department. Any such participant shall be entitled to receive a monthly retirement benefit equal to his/her accrued benefit.

Sec. 25-241. Disability retirement.

(a) *Line-of-duty disability.*

- (i) Upon application by or on behalf of the participant or by the director of the city division for which the participant works, any participant who is not a police officer or firefighter determined to have incurred an in-line-of-duty disability shall receive during the period such participant suffers from such disability a retirement benefit equal to the greater of sixty percent (60%) of his/her average monthly compensation or his/her accrued benefit as of the date of such disability based on the disability mortality table.
- (ii) Upon application by or on behalf of the participant or by the director of the city division for which the participant works, any participant who is a police officer or firefighter determined to have incurred an in-line-of-duty disability shall receive during the period such participant suffers from such disability a retirement benefit equal to the greater of sixty percent (60%) of his/her average monthly compensation or his/her accrued benefit as of the date of such disability based on the disability mortality table.

(b) *Ordinary disability:*

- (i) Upon application by or on behalf of the participant or by the director of the city division for which the participant works, any participant who is not a police officer or firefighter determined to have incurred an ordinary disability shall receive during the period such participant suffers from such disability a retirement benefit equal to his/her accrued benefit as of the date of such disability based on the disability mortality table; provided, however, that the board shall deny any such benefit payments and, instead, refund the participant's employee contributions in accordance with section 25-243, if the board has proof that such disability is a result of the participant's gross and willful misconduct.
- (ii) Upon application by or on behalf of the participant or by the director of the city division for which the participant works, any participant who is a police officer or firefighter determined to have incurred an ordinary disability shall receive during the period such participant suffers from such disability a retirement benefit equal to his/her accrued benefit as of the date of such disability based on the disability mortality table; provided, however, that the board shall deny any such benefit payments and, instead, refund the participant's employee contributions in accordance with section 25-243, if the board has proof that such disability is a result of the participant's gross and willful misconduct.

(c) *Re-examination of disability.* At the discretion of the board, a participant receiving benefits under this section 25-241 may be required to undergo a medical examination by a qualified physician to determine whether the participant continues to suffer from the disability.

(d) *Cancellation of disability retirement:*

(1) If a participant refuses to undergo medical examination under section 25-241(c), his/her benefits shall be discontinued until s/he withdraws his/her refusal.

(2) If a participant is determined under section 25-241(c) to have recovered from his/her disability, his/her disability benefits shall be cancelled and s/he shall be reinstated to city employment. Upon returning to city employment, s/he shall have full credit for all employee contributions and years of service credits to him/her as of the original date of his/her disability.

(3) If a participant's disability benefits under this section 25-241 are cancelled for any reason other than returning to city employment, s/he shall receive a refund of her/his employee cash balance plan contributions and employee defined contribution plan contributions, in accordance with section 25-243, reduced by the amount of any benefit payments previously made to the participant.

(4) If a participant suffering from a disability and receiving benefits under this section 25-241 nevertheless engages in a gainful occupation not with the city or returns to employment with the city and re-enters the 2016 Plan as a participant, his/her disability benefit payments and his/her compensation from such occupation or city employment shall not exceed his/her average monthly compensation as of the original date of his/her disability.

Sec. 25-242. Deferred retirement.

(a) Any participant meeting the requirements of section 25-242(c) shall receive a deferred retirement benefit under this 2016 plan equal to his/her accrued benefit and payable in the normal form of benefit.

(b) The annuity commencement date of any participant who is to receive his benefit pursuant to section 25-242 shall be the date s/he reaches age sixty (60).

(c) To be eligible for electing a deferred retirement benefit under this section 25-242 a participant:

(1) Must be credited with ten (10) or more years of service as of his/her severance date.

(2) Must not be entitled to any benefits under any other section of this Division 3; and

(3) Must not have engaged in an act determined harmful to the city by the board and resulting in the participant's conviction of a felony, illegal manipulation of the books and records of the city, theft, or embezzlement of assets.

Sec. 25-243. Refund of employee contributions.

(a) Any participant whose employment with the city terminates, for any reason other than death, who is not entitled to any benefits under any other section of this Plan shall receive an amount equal to his/her total participant employee cash balance plan contributions plus the interest crediting rate on such contributions as provided herein and defined contribution account balance attributable to the participant's contributions paid within two (2) months of the date the termination of his/her employment occurs or is deemed to have occurred under section 25-243(b) unless s/he earlier withdraws the participant employee contributions or becomes entitled to receive benefits under any other section of this Plan.

(b) A participant during a leave of absence period shall be deemed to have terminated employment with the city if during such period s/he:

(1) Retires under this 2016 Plan;

(2) Withdraws his/her employee contributions; or

(3) Actually terminates employment with the city, or does not return to active employment with the city as of the earlier of the date two (2) years from the beginning of such leave of absence period or the end of such period.

Sec. 25-244. Benefits upon reemployment.

If a participant receiving benefits pursuant to this 2016 Plan is reemployed after his/her annuity commencement date, no further benefit payments shall be made to that participant during his/her period of reemployment. Subsequent benefits and an appropriate annuity commencement date for that participant shall be determined based upon the participant's accrued benefit at that time; provided, however, subsequent benefits shall be reduced by the actuarial equivalent of any amounts distributed between his/her first annuity commencement date and his/her most recent reemployment commencement date, but not to an amount less than the annual plan benefit he/she was receiving immediately before his most recent reemployment commencement date.

Sec. 25-245 through 25-249. Reserved.

Part 6.

Death

Sec. 25-250. Line-of-duty death.

- (a) The beneficiaries described in section 25-251(b) of a participant who is not a police officer or firefighter who dies as the direct and proximate result of an accident sustained by him as a participant, while in the actual performance of duties for the city without willful negligence on his/her part, before or after s/he received a line-of-duty disability benefit under section 25-241, shall receive a death benefit equal to the greater of sixty percent (60%) of his/her average monthly compensation or his/her accrued benefit as of the date of such death.
- (b) The beneficiaries described in section 25-251(b) of a participant who is a police officer or firefighter who dies as the direct and proximate result of an accident sustained by him as a participant, while in the actual performance of duties for the city without willful negligence on his/her part, before or after s/he received a line-of-duty disability benefit under section 25-241, shall receive a death equal to the greater of sixty percent (60%) of his/her average monthly compensation or his/her accrued benefit as of the date of such death.

Sec. 25-251. Other death benefit.

- (a) The beneficiaries described in section 25-251(b) of a participant who is not a police officer or firefighter who dies other than as described in section 25-250(a) and who has not elected deferred retirement under section 25-242 shall receive a death benefit equal to shall receive a death benefit equal to seventy five percent (75%) of:
 - i. The retirement benefit, if any, the participant was receiving as of his/her date of death; or
 - ii. If the participant died before his/her annuity commencement date, but after the participant was credited with five (5) or more years of service, or suffered an ordinary disability, the retirement benefit to which the participant was entitled under section 25-240, 25-241, or 25-242.
- (b) The only beneficiaries of the benefit under section 25-251(a) shall be the participant's spouse, if married to the participant at the time of his/her death, or, if no such spouse, the participant's surviving child and handicapped child, as those terms are defined in Sec. 25-1(6).

Sec. 25-252 through 25-259. Reserved.

Part 7. Rollovers

Sec. 25-260. City's 457(b) Plan

- (1) *Rollover of participant accounts from the city's 457(b) plan.* To the extent permitted by the Internal Revenue Code, a participant of the 2016 Plan who also participates in the city's 457(b) plan may, upon such participant's termination of employment with the city but prior to the participant's annuity commencement date, transfer the participant's 457(b) account by direct rollover to this 2016 Plan, provided such transfer will not jeopardize the tax exempt status of this plan. The transferred amount shall be set up in a separate account to be known as a "Rollover Account." Such Rollover Account shall be fully vested at all times and shall not be subject to forfeiture. Such Rollover Account shall be held pursuant to the provisions of this 2016 plan and shall not be withdrawn by or distributed to the participant except as provided in this 2016 Plan.
- (2) *Distribution of Rollover Account as Part of Accrued Benefit.* At the participant's normal retirement date, or such other date when the participant shall be entitled to receive benefits, the value of the Rollover Account shall be combined with the participant's cash balance account and defined contribution account of the participant to provide additional monthly benefits to the participant as provided herein.

Sec. 25-261 through 25-269. Reserved.

Part 8. General Provisions.

Sec. 25-270. Amendments.

Pursuant to Tenn. Code Ann. §9-3-506, as amended from time to time, the city reserves the right to freeze, suspend or modify benefits, employee contributions, plan terms and design on a prospective basis provided that any accrued benefits earned prior to any adjustment shall remain an enforceable right unless the participant is subject to forfeiture of benefits upon termination of service as provided in this plan.

Sec. 25-271. No Duplication of Benefits.

Notwithstanding any provision of this plan which may be construed to the contrary, a participant shall not be entitled to two separate benefits under the plan which are attributable to the same period of employment. Accordingly, if a separate benefit under the plan is payable to or in respect of the same participant based upon the same period of employment as the benefits previously paid, the benefit currently payable shall be reduced to reflect the actuarial equivalence of the benefits previously paid.

Sec. 25-272. Payments solely from plan assets.

Payments of benefits as provided in this 2016 Plan shall be made solely from plan assets held under the trust agreement and in no event will the comptroller, the board, the city, the council, or any employee of the city be liable in their individual capacities to any person for the payment of benefits hereunder.

Sec. 25-273. Prohibition on Assignment.

No benefit payable under this plan shall be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, attachment, garnishment, execution, or levy of any kind or any other process of law, voluntary or involuntary. Any attempt to so dispose of any rights to benefits payable hereunder shall be void. Neither the plan nor trust shall be liable for or subject to the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder.

Sec. 25-274. Severability.

If any provisions of this plan are for any reason declared invalid or not enforceable under either federal or Tennessee law, such provisions will not affect the remaining terms and conditions, but the plan will be construed and enforced thereafter as if such provision had not been inserted.

THE FOREGOING ORDINANCE
5573 PASSED

1st Reading 11-4-14
2nd Reading 11-18-14
3rd Reading 12-16-14

Approved: Myron Seweryn
Chairman of Council

Date Signed: 1-6-2015

Approved: [Signature]
Mayor, City of Memphis

Date Signed: 1/13/15

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Snyper
Comptroller

**INSURANCE REQUIRMENTS
FOR HR EMPLOYEE 457(b) DEFERRED COMPENSATION PLAN
AND 401(a) DEFINED CONTRIBUTION PLAN**

The Company shall not commence any work under this contract until it has obtained and caused its subcontractors to procure and keep in force all insurance required. The Company shall furnish the Risk Manager a Certificate of Insurance and/or policies attested by a duly authorized representative of the insurance carrier evidencing that the insurance required hereunder is in effect. All insurance companies must be acceptable to the City of Memphis and licensed in the state of Tennessee.

If any of the Insurance Requirements are non-renewed at the expiration dates, payment to the company may be withheld until those requirements have been met, or at the option of the City. The City may pay the renewal premiums and withhold such payments from any monies due the Company.

The Company shall indemnify, defend, save and hold harmless the City, its officers, employees, and agents, from and against any and all claims, demands, suits, actions, penalties, damages, settlements, costs, expenses, or other liabilities of any kind and character arising out of or in connection with the breach of this Agreement by Company, its employees, subcontractors, or agents, or any negligent act or omission of Company, its employees, subcontractors, or agents, which occurs pursuant to the performance of this Agreement, and this indemnification shall survive the expiration or earlier termination of this Agreement. The provisions of this paragraph shall not apply to any loss or damage caused solely by the acts, errors, or omissions of the City, its officers, employees and agents. Contracts for third party service providers should include indemnity provisions that protect the City from any liability arising out of the Company's loss of City's sensitive information.

Each certificate or policy shall require and state in writing the following clauses:

Company shall provide notice to the City within three (3) business days following receipt of any notice of cancellation or material change in Company's insurance policy from Company's insurer. Such notice shall be provided to City by registered mail, to the following addresses:

City of Memphis
Attn: Risk Management
2714 Union Extended, Suite 200
Memphis, TN 38112

City of Memphis
Attn: Purchasing Agent
125 North Main, Room 354
Memphis, TN 38103

The Certificate of Insurance shall state the following: "The City of Memphis, its officials, agents, employees and representatives shall be named as additional insured on all liability policies." The additional insured endorsements shall be attached to the Certificate of Insurance and the Certificate of Insurance shall also state: "The additional insured endorsement is attached to the Certificate of Insurance."

WORKERS COMPENSATION:

The Company shall maintain in force Workers' Compensation coverage in accordance with the Statutory Requirements and Limits of the State of Tennessee and shall require all subcontractors to do likewise with Minimum Limits of:

Employers Liability	\$100,000	Each Accident
	\$500,000	Disease – Policy Limit
	\$100,000	Disease – Each Employee

AUTOMOBILE LIABILITY:

Covering owned, non-owned and hired vehicles with Minimum LIMITS OF:

\$1,000,000 Each Occurrence – Combined Single Limits

FIDELITY BOND / EMPLOYEE DISHONESTY:

For losses arising out of or in connection with computer fraud, fraudulent or dishonest acts committed by employees of Company, acting alone or in collusion with others, including the property and funds of others in their care, custody, or control with Minimum LIMITS OF:

\$10,000,000 Each Occurrence/Aggregate

COMMERCIAL GENERAL LIABILITY:

Comprehensive General Liability Insurance, including Premises and Operations, Contractual Liability, Independent Contractor's Liability, and Broad Form Property Damage Liability coverage with Minimum Limits of:

\$2,000,000	General Aggregate
\$2,000,000	Products & Completed Operations
\$2,000,000	Personal & Advertising
\$2,000,000	Each Occurrence (Bodily Injury & Property Damage)
\$ 50,000	Fire Damage any One Fire
\$ 5,000	Medical Expense any One Person

PROFESSIONAL LIABILITY:

The Company shall maintain such coverage for at least three (3) years from the termination or expiration of this agreement with Minimum Limits:

\$10,000,000	Per Claim
\$10,000,000	Aggregate

PROFESSIONAL / “NETWORK SECURITY AND PRIVACY” LIABILITY:

The Company shall maintain such coverage for at least three (3) years from the termination or expiration of this agreement with Minimum Limits:

\$10,000,000	Per Claim
\$10,000,000	Aggregate

DIRECTORS AND OFFICERS LIABILITY:

The Company shall maintain such coverage for at least three (3) years from the termination or expiration of this agreement with Minimum Limits:

\$10,000,000	Per Claim
\$10,000,000	Aggregate

PROPERTY INSURANCE:

The Company shall be responsible for maintaining any and all property insurance on their own equipment and shall require all subcontractors to do likewise. The Company shall require all subcontractors to carry insurance as outlined above, in case they are not protected by the policies carried by the Company.

The Company is required to provide copies of the insurance policies upon request.